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House of Representatives

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Lord God, by reflecting on our faith story in the past both as individuals and as a Nation, You help us in our discernment of present issues.

By coming to understand who we truly are in relationship to You, Almighty God, and how we are drawn together as a people, You enable us to accept the light and the darkness within ourselves, the strong and the weak, the godly and the sinful, the wounded and the healthy.

In taking possession of ourselves in the mirror of Your own word, we see Your mighty hand guiding our history.

And Your dealings with us in the past help Congress today to lead us on the path to freedom.

Our true freedom is the ability to truly become the people You have destined us to be, to determine the shape of things to come and find direction for our life now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Oregon (Ms. HOOLEY)

come forward and lead the House in the Pledge of Allegiance.

Ms. HOOLEY of Oregon led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1442. An act to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 589. An act to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 10 one-minute requests on each side.

REEXAMINING A STREAMLINED PROCESS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, our companies that develop drugs that treat life-threatening illnesses must go through a rigorous process to ensure the safety and effectiveness of their drugs. Only after these FDA requirements are met, can the drug be put on the market. Under rare circumstances, medications can be approved through an accelerated process known as Subpart H which was adopted to streamline the approval of desperately needed drugs intended to treat serious and life-threatening illnesses.

RU-486, an abortion drug, was approved under this streamlined process.

Several weeks ago, Holly Patterson, a California teenager, died from an infection caused by fragments of her baby's corpse left in her uterus after she took RU-486 at a Planned Parenthood facility.

Mr. Speaker, the Food and Drug Administration should not have authorized this dangerous drug. Legislation is being introduced today that takes RU-

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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486 off the market and demands to review the process by which this drug was approved. I hope the House will soon consider it.

TRULY HONOR OUR VETERANS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, Veterans Day, November 11, 150,000 veterans will have waited 6 months or longer for appointments for medical care; 14,000 veterans have been waiting 15 months or longer for expedited disability claims; 560,000 disabled veterans will be forced to pay the disabled veterans tax. It does not have to be this way. But we are confronted with the most anti-veteran, anti-veteran administration in Congress in history.

The President refused to spend \$275 million in emergency money. He cut off veterans' health care for 160,000 Category 8 veterans. Although there are 373 cosponsors to do away with the disability tax, the President has threatened to veto the bill if we do away with the veterans' disability tax, and Republican leaders refuse to bring up that bill here in the House.

It would be better to celebrate Veterans Day with actions that delivered on our promises to veterans than laudatory words; but I fear that we will just hear words and not see actions from this Congress and this administration.

INTELLIGENCE COMMITTEES ARE A CAMPAIGN-FREE ZONE

(Mr. GREEN of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Wisconsin. Mr. Speaker, not so long ago, Democratic leaders said before the cameras, actually yelled before the cameras, that this war should not be politicized.

This week we learned just how empty and how hypocritical those words were. Among other things, we learned of a Democratic staff memo from a Senate Permanent Select Committee on Intelligence describing a plan to use intelligence information about the war for political points during a Presidential campaign.

Mr. Speaker, we have men and women in uniform in harm's way. We have families back here who desperately miss them and fear for their safety and now we have this memo.

Not everything is a political game. Not everything should be campaign fodder. Of all our committees, our intelligence committees should be campaign-free zones. I believe the American people deserve better, and I know our troops deserve better.

ACKNOWLEDGING AMERICA'S PAIN

(Mr. EMANUEL asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, I want to complement the President for traveling to southern California to comfort the families and the communities of the San Diego area.

While Americans in southern California suffer great losses and begin the struggle to rebuild, it is essential that our President which he did demonstrate the commitment of his administration and the entire Nation to helping them legal.

An article in the Chicago Tribune discusses today, families across the country are working to rebuild their lives after burying a son or daughter who died in combat. The President rightly goes to California to comfort a family that has lost a home. Why is he not coming to Illinois to comfort a family who has lost a son?

The President in San Diego lifted the spirits of an entire community as they reassembled their lives. That same compassion needs to be shared with the parents who are burying their children. They deserve to know that the growing criticism of the situation in Iraq will not keep the President from acknowledging their individual losses.

This is all the more important on today when the President signs the \$87 billion to help Iraq rebuild their nation. We cannot pass by the families who have lost and have personal pain. They are all part of America's family.

CELEBRATING AMERICAN VETERANS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on Tuesday, November 11, America will celebrate the 50th anniversary of Veterans Day, a day to honor our men and women who have fought to preserve freedom and liberty for generations to come.

Veterans Day was formerly known as Armistice Day in recognition of the end of World War I, until President Dwight D. Eisenhower changed the name of the holiday to include all veterans in 1954. This year, we will honor the 25 million living veterans who have fought and the more than 1 million men and women who have died to ensure freedom and bring about peace in conflicts, including World War II, the Korean War, Vietnam, the Gulf War and today's war on terrorism. This will be an especially solemn occasion as our current military are engaged in a fight for democracy in Iraq, a critical battle in the war on terrorism that we will win, to protect the American people from terrorists.

Since America was attacked on September 11, America has been awakened to a greater understanding and appreciation for the freedoms we enjoy here in our great Nation. This Veterans Day is an opportunity to thank those who

are responsible for protecting our way of life and have joined in struggles around the world in defense of liberty. In conclusion, God bless our troops.

HONORING ARMY MASTER SERGEANT TONY PRYOR

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to recognize the valiant efforts of Army Master Sergeant Tony Pryor, who recently received the Silver Star, the Nation's third highest military decoration, for his heroism which saved the lives of his fellow Special Forces team members.

The son of a logger from Toledo, Oregon, Tony Pryor has often been described as a fierce competitor and the epitome of a warrior. He put these skills to work last year when he single-handedly neutralized four al Qaeda soldiers while raiding a compound in Afghanistan. In doing so, he undoubtedly saved the lives of his fellow team members involved in the mission.

In his 14 years of service with the Special Forces, Master Sergeant Pryor has been on missions in Haiti, Somalia, Kuwait, and Iraq among other places.

I want to thank Master Sergeant Pryor for his heroic efforts and congratulate him on his award. He makes all of us proud. I feel safe at night knowing that he and others like him are defending this great Nation.

TRANSPORTATION WASTE WATCHER

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, this morning I wanted to stand and call for increased efficiency in our Federal Government. Our obligation here in the House is to protect precious dollars taken from the taxpayer by streamlining and improving our Federal Government. Specifically, I believe there is need for increased efficiency in the U.S. Department of Transportation.

Savings in programs such as Federal Transit Administration programs will mean more money to invest for our country's transportation infrastructure.

This past March, I met with Transportation Inspector General Kenneth Mead to discuss business practices of the agency and how Congress can better facilitate saving money in relation to transportation spending. In July, the committee held a hearing and identified several ways to enhance efficiency.

One way to trim excess and expedite construction on transportation projects is by granting more authority to State Departments of Transportation to deliver transportation and deliver those corridors faster.

On July 24, I introduced H.R. 2864, the Reforming, Accelerating and Protecting Interstate Design Act, otherwise known as the RAPID Act. This bill would allow large transportation systems to be built in less time and to save transportation funds by allowing roads to be built in commonsense increments as they are needed.

CONGRATULATING THE ST. JOSEPH BALLET COMPANY

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to offer my congratulations to the St. Joseph Ballet Company from Santa Ana, California, which was honored last night for being one of 18 organizations across the United States and Mexico to receive the 2003 Coming Up Taller Award.

This award recognizes outstanding community arts and humanities programs for their work with the underserved youth and for providing them with learning opportunities and a way to serve our communities.

□ 1015

I am very proud that one of the recipients of this prestigious award comes from my district, because St. Joseph is more than just a dance program. They have been teaching children about dance, self-discipline, and the importance of academic excellence for over 20 years. They give children a sense of accomplishment. They help motivate them in all aspects of life, and they seek to provide children with an education that goes beyond the standard core curriculum. I am very pleased that because of their hard work they have been nationally recognized with this wonderful award.

SAVING ENERGY AND TAXPAYER MONEY

(Mr. MURPHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY. Mr. Speaker, as the cold of winter approaches also comes homeowners' concern for rising heating costs. It is important that the Federal Government take some leads in helping to deal with the supply and demand issues.

The Federal Government is the largest single user of energy in the world, spending \$10 billion per year for its buildings. Despite past efforts, however, energy consumption is still too high, using old, inefficient technology. Only nine agencies since 1929 have reported energy savings in trying to save costs. The Alliance to Save Energy estimates at least 1 billion in taxpayer dollars is still being wasted. Some estimates are higher. For example, military bases can save millions in energy

costs by replacing old, failing boilers and heating systems with energy-efficient models.

The energy bill that will soon be taken up by the House will take an important step to increase energy efficiency by requiring a 20 percent energy consumption reduction in the next decade. This is a vital provision, one that will save mass amounts of taxpayer money, conserve energy, help save energy costs for our Nation.

Let us stop the waste and start conserving for our future.

WHAT IS THE PLAN TO GET OUT OF IRAQ?

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, yesterday I came to the floor and told my colleagues about a young man from my district who was killed in Iraq and the conversation I had with his mother. Since then, two more Americans have died in Iraq. Yesterday, I asked Members to be silent and contemplate our lost men and women.

Today, Mr. Speaker, I ask my colleagues to ask the President for a plan for how we are going to get out of Iraq. Whatever threat Mr. Bush may have perceived from Saddam Hussein, whatever warehouses of weapons Mr. Bush believed were waiting to harm the United States, it is over now. We should plan to get out.

We should not spend the lives of young men and young women to privatize Iraq's economy. We should plan to get out. We should not spend the lives of young Americans to build sewers in Iraq. We should not spend the lives of young Americans to make Iraq into our vision of a model state. We should plan to leave. We are symbols. We are targets. We are sitting ducks. Send in the U.N. or some of the Arab states or NATO or whoever wants to go. Pay for it with American taxpayers' money as you sign it today, but stop paying for it with American lives. Plan, Mr. President, to get out.

HONORING AND THANKING THE VETERANS OF 7TH CONGRESSIONAL DISTRICT OF TENNESSEE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, we are coming up on Veterans' Day, and I rise today to honor and say thank you to the over 65,000 men and women who are veterans and constituents of Tennessee's Seventh Congressional District. I thank them one and all for their service, for their sacrifice, their valor and for their commitment to duty, which has been to stand vigilant, strong and to protect our freedom that we enjoy.

I also want to say thank you to our troops and to their families. Our Seventh Congressional District is home to many of the families from Fort Campbell, who are part of the 101st Airborne and the Special Operations Forces, and we are also home to many of the National Guardsmen and the Reservists and their families who are deployed and who are now defending freedom in Afghanistan and Iraq.

We appreciate their sacrifice. We thank them for the job that they are doing so very well.

LOOTING OF MUTUAL FUNDS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, 95 million investors have deposited \$7 trillion in mutual funds, the largest deposit of retirement savings in this country. They have deposited that money there in hopes of a bright retirement, building a nest egg that can support their family and their standard of living when they cease to work. These are hardearned dollars of American workers in every industry at every level. They were told to invest for the long term, \$7 trillion.

Now every morning the American worker wakes up to a new headline, where the powerful, the insiders, the elite, the criminals are looting those mutual funds, are skimming profits off of those trust funds to the detriment of the average investor, the average worker.

Mr. Strong, who runs the Strong Mutual Funds, who is worth \$800 million, set up an account for his daughter, for his wife and for himself and secretly looted the savings of American workers. Mr. Strong should go to jail.

DYNACORP CONTRACT TO TRAIN POLICE IN IRAQ

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, liberals who gave us Big Government should love the DynCorp contract to train police in Iraq. Almost all Federal contracts are sweetheart deals that hire former high-level Federal employees or retired military officers, but this police training contract just about takes the cake.

NBC News reported the night before last that we have already spent \$30 million on this deal and will in short order be spending \$800 million more. We will be spending, according to NBC, \$400,000 per trainer, counting salaries, benefits and expenses. No policeman in this country makes anywhere near this much.

DynCorp was so embarrassed they refused to comment because they knew there was no way they could justify the obscene profits and ripoff of the U.S.

taxpayers in this sweetheart deal, \$850 million, \$400,000 per trainer. DynCorp should be ashamed, but I suppose they are laughing all the way to the bank.

PRESIDENT BUSH SIGNS PARTIAL BIRTH ABORTION BAN ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, yesterday I had the privilege of sitting just a few feet away as President George W. Bush signed the Partial Birth Abortion Ban Act of 2003. In both deed and in word, President George W. Bush did much for the cause for life yesterday, ending a period of time in our history when a terrible form of violence directed against children inches from birth was allowed under the law.

But in addition to his signature, the President also expressed clear moral leadership, saying, "America stands for liberty . . . and the unalienable right of life." The President went on to say, "Every person, however frail or vulnerable, has a place and a purpose in this world" because "the right to life cannot be granted or denied by government, because it does not come from government." The President said, "It comes from the Creator of life."

The President not only lent his signature to an important legislative initiative, but in the very best example of American leadership, he provided a clear moral vision, leading us away from the nightmare of abortion in America.

Righteousness exalts a Nation and did so yesterday.

A VOTE FOR LIGHT RAIL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is not often that we come to the floor to discuss a myriad of local official issues, but this one is worth announcing. The voters of Harris County and Houston and the metroplex have spoken in Houston, Texas. We have voted overwhelmingly to improve the quality of life, to enhance regional mobility and to say to the world that we do believe that the environment is premised on more and more of us being concerned about the idea of not polluting our air quality. We have voted for light rail.

For 30 years, it may sound humorous to some, but we have argued and debated this question in Houston, Texas, and through large opposition, moneyed opponents, misleading statements the people saw the truth and have voted to provide for light rail for their students, for their businesses, for their communities, for their tourism, and for the enhancement of economic development.

With that vote, we now come to this House to ask for our fair share, our fair

share of rail and transportation dollars, \$2.4 billion. Congratulations to the metro for voting for light rail and the people of Harris County.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would ask Members to heed the gavel.

BENEFITS FOR THE TOP ONE PERCENT

(Mr. RYAN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Speaker, the tax cut that went to the top 1 percent, we withstood that. The trade deals that send our jobs to Mexico, the loss of manufacturing jobs, we have talked about that. The vetoing or threatening of vetoing the Buy American legislation for the defense appropriations bill, we have thought that took the cake, but now the administration took out the antiprofitteering provision for the \$87 billion supplemental. Give me a break.

It is obvious now to the American people that this administration and this Congress is bought and paid for by the top 1 percent of the people in this country. They get all the money they want for the deals in Iraq. They get their tax breaks back. They donate it to the President and they get the legislation they want.

It is time for the American people to stand up and pay attention to what is going on and take the country back.

TAX CUTS WORK

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, do the tax breaks work? Well, not according to Howard Dean and Al Sharpton and Wesley Clark and all the other liberal left running for President. But a funny thing happened in the economy. Last month, the numbers came out. The gross domestic product increased 7.2 percent. The economic growth rate, one of the highest since 1984 when Ronald Reagan was President, right after he had cut taxes. The jobless claims have decreased. More people are working and there has been a surge in productivity.

Do tax cuts work? Well, the economy and the economic numbers that are just out say, yes, they do. People are working. Revenues are up. Why do they work? Because if a worker has more money in his pocket then he is going to go out and spend more. Small businesses will respond by increasing their inventory. When they do that and demand goes up, they hire more people. When more people are hired, more peo-

ple are paying taxes and fewer people are on welfare depending on government checks. Tax breaks work.

ELECTION OF AFRICAN AMERICAN WOMEN TO MUNICIPAL COURT

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, on election day Tuesday in the city of Cleveland, Ohio, the voters of the city of Cleveland elected four smart, intelligent, good-looking African American women to the municipal court: Emanuella Groves, reelected; Lauren Moore, elected for the first time; Anita Lassiter May, elected for the first time; and Pauline Tarver, elected for the first time.

We are so excited about the opportunity for these young women to serve and provide justice to the people of the city of Cleveland. I join with the voters of the city of Cleveland in congratulating these fine young women who will serve well as Cleveland municipal court judges.

□ 1030

APPOINTMENT OF CONFEREES ON H.R. 1904, HEALTHY FORESTS RESTORATION ACT OF 2003

Mr. GOODLATTE. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Agriculture, I move to take from the Speaker's table the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on the National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Virginia (Mr. GOODLATTE) is recognized for 1 hour on his motion.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Nation is well aware of the problem we have with our national forests. The wildfires in California for the past 2 weeks have made it all too painfully clear that we need to take measures to protect our forests. The legislation that is before the House, H.R. 1904, that the House passed with strong bipartisan support, accomplishes that goal. The Senate has also passed legislation to address this matter. There are substantial differences

between the House and the Senate on this matter, and it is vitally important that we address this as quickly as we possibly can.

There is a lot of work that needs to be done. We will be entering another fire season starting next spring. We can see from the California fires that these fires can occur any time of year in different parts of the country, and so it is vitally important that we get this matter resolved as quickly as possible. Because there are substantial differences between the House and the Senate and because there is substantial agreement here on the House side that some of the measures in the Senate legislation do not adequately address the concerns that we have raised, we need to have a conference on this, and we are prepared to do that and act very, very quickly.

It is my hope that the House will pass this motion and will move to appoint conferees, and then we will turn to the Senate and ask that they take the same steps over there. There has been some slowness in the movement in the other body on this, and we hope that will be rectified by the action taken here on the House side today.

It is our hope that legislation that was included in an appropriations bill a few years ago to address this problem in the State of South Dakota, which has far more leniency in terms of the flexibility given to the Forest Service to address the measure, address the concerns in the State of South Dakota, should be extended to other States around the country. Neither the House bill nor the Senate bill has language that goes as far in giving that authority as already exists in the State of South Dakota, but we would certainly like to have the opportunity to pass a measure worked out between the House and the Senate to give our national forests and other national lands the same type of management tools to expedite what is necessary to protect our national forests from wildfire, from disease and insect infestation, and we can accomplish that and accomplish it expeditiously if we move forward to appoint conferees and the Senate does the same thing.

Mr. Speaker, I urge my colleagues to support our efforts to move forward.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE).

The motion was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES OFFERED BY
MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. STENHOLM moves that the managers on the part of the House in the conference on

the disagreeing votes of the two Houses on the bill, H.R. 1904, shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report not later than Thursday, November 13, 2003.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Virginia (Mr. GOODLATTE) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion is really very simple. It is basically intending to return this body to regular process. I know this is a novel idea around here lately, but it requires the managers of the House to meet in open session with the Senate conferees, House and Senate, Democrats and Republicans, as soon as practicable after the adoption of this motion.

In addition, it requires the conferees to file a conference report no later than Thursday, November 13. The November 13 deadline is meant to highlight the imperative nature of the Healthy Forests legislation. However, we all recognize the time-consuming nature of conferences and the short time frame this will provide, but let me remind Members, we have been talking about this issue for years. I remember when it was chairman Bob Smith of the Committee on Agriculture, and the tremendous work he did all over this country in trying to reach out and find a compromise. It was turned down.

If we are going to deal with problems as severe as what we have now witnessed in California, it means some strongly-held beliefs are going to have to be compromised in order to do things that some folks do not want to see done; but most people believe and will agree that they must be done if we are going to accomplish what is needed for our national forests. The important part of my motion is the requirement that the conferees meet and deliberate on the merits of the Senate and House proposals.

We will hear that the Senate has a finely tuned deal if it breaks up, everything breaks up. I hope that is not going to be the argument. I hope that we can have a meaningful conference.

The House Committee on Agriculture has a reputation, a long-held reputation, of working in a bipartisan way and that is why we accomplish as much good for our Nation as we do. No Speaker, no majority leader, would ever dare rewrite a farm bill in the Committee on Rules or in the leadership office. It has been tried, but it has never worked.

I am personally very disturbed by what I have seen going on in the energy conference. I am very interested in energy legislation, and I am very disturbed when the leadership of this body suggests that they are the only

ones that can write this legislation. This body does not work well when we do some of the things that we have been doing in this body over the last several years.

On the Committee on Agriculture, we have a history of bipartisan cooperation. Many of my colleagues have suggested that we simply take the Senate bill, pass it and send it to the President. I am not supportive of that procedure. We need to reach a consensus on the issue surrounding the Healthy Forests legislation. I know many on the far left and many on the far right will say that is impossible, but both sides of the aisle have a responsibility to come to the table with a willingness to compromise. This is an issue that demands just that kind of process if we are going to deal with disasters like we have just seen in California, disasters like we have seen all over Colorado, and all over areas of this country that are witnessing what happens when we do what we have done over the last several decades in the handling of our national forests. The record is there.

I think the House bill is a good bill. It was put together with bipartisan support, not unanimity of opinion. There were differences held, and we will never get 100 percent to agree because politically that is impossible. But I think if we do our job in this conference, as this simple motion, as I said in the beginning, a novel idea that we actually allow this House of Representatives to function as was intended by our forefathers who wrote the Constitution, gave us the responsibility to deliberate and set forth under the rules of order of this body how we should go about it.

Yes, we can do it in a very short period of time if we are willing to. So I hope and fully expect, since I cannot imagine any controversy over this motion today, that it will pass. That is not what I am most interested in, though. I am very interested in seeing the process work. I think this body will be better off if at least one committee, and there are a few others that still function in a bipartisan way, but very few. The energy bill is a prime example of how not to run this House. The Medicare pharmaceutical bill is an example of how not to run this House. Maybe we need a good example.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to say to the gentleman from Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture, that the gentleman is correct, this is an unusual motion to instruct. It is also a very welcomed motion to instruct.

This is exactly the approach that we need to take in resolving a very, very important piece of legislation and the differences that exist between the House and the Senate on this legislation. We can do it exactly because, as

the gentleman notes, the House Committee on Agriculture, the committee of primary jurisdiction over this legislation, has a long history of working together across the aisle between the parties, Member to Member, on all kinds of important and complex legislation.

The farm bills that we pass are obviously the greatest example of that. Farm bills bring together every region of the country, every political ideological difference, every type of farm commodity, and we have to agree upon one piece of legislation to send to the President for signature so American agriculture can plan ahead for 5, 6, 7 years. That requires intense cooperation.

We have the same problems with our Nation's forests and our forest policy. It is in disrepair. It is not working. The forest fires that we are seeing in California now that we have seen all across the country, the infestation of our forests in the east and south from disease and insects require proper management and proper management policy. We do not have an effective working policy today that allows us to promptly address these major problems that in California have taken more than 3,500 homes, taken the lives of 20 people, have scorched the earth. These are not natural fires that occur that thin out our forests, these fires take the entire forests. In some places, the heat is so intense it turns the ground to glass. Water cannot permeate the soil. The devastation lasts for decades. Proper management of these forest will yield the correct result.

So I agree fully with the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM) because it calls on the conferees to be appointed here, led by the Committee on Agriculture, to do what we have always done. And we will work with the Committee on Resources and the Committee on the Judiciary to make sure that we have an effective conference, and we look forward to working with the Senate. They have put forward a work product that we are interested in. We think there are many things in the House bill not included in the Senate bill, and some things in the Senate bill that are not included in the House bill that are problematic.

But we are confident, given our history of working together, that this will be a conference that includes, as the gentleman requires in his motion to instruct, meeting in open session with fair discussion. How do we know that will take place, because it has always taken place with the Committee on Agriculture. It took place in the farm bill just last year, and it will again. We have a good working relationship, and we intend that that carries over into the passage of this legislation.

The proof of it is how we worked this bill through the committee. It passed the committee by overwhelming support. On the floor of the House, I believe of the 24 Democrats on the com-

mittee, I think 19 of them voted for the legislation on the floor. There was very strong, overwhelming bipartisan support for the legislation that the House passed.

□ 1045

That calls for us to have a conference with the Senate, to not simply accept the premise that somehow the Senate should dictate to the House as they so often try to do time and time again. This matter is too important; this House is too important to accept that premise. It is time that we go to conference. We should go quickly. This instructs us to act quickly, to report back a conference report within a week. We are very prepared to undertake that ambitious agenda and to work it through with the Senate, with Members of the House on our committee, with Members of the House not on our committee, and work this out as quickly as possible. This is important legislation that we should send to the President for his signature. He is anxious to sign it.

I look forward to working with my colleagues on both sides of the aisle to accomplish a very fine healthy forests final product that is worked out fairly between the House and the Senate for the President's signature.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER).

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I want to thank the gentleman from Texas for offering this motion to instruct and appreciate his remarks and the remarks of the gentleman from Virginia, the chairman of the committee. The reason this motion is offered is because there has been concern about the deterioration of the conference process between the House and the Senate. As the gentleman from Texas pointed out, the process that we are now witnessing with the energy bill and with the prescription drug bill is a disaster in terms of public participation, public understanding of what is taking place, and the protection of Members of this body as they represent their constituencies.

I am delighted that the Committee on Agriculture has a long tradition of open conference committees. I believe that the Committee on Resources has that same long tradition of ironing these kinds of legislative conflicts out. I think it is also important that this motion to instruct have the date due to try to encourage the conference to get this done.

We do this in the aftermath of the California fire disasters, but the California fire disasters did not happen in a vacuum. It is not that this Congress was not working on this problem; it was that this Congress could not reach

agreement. Over 2 years ago, the gentleman from Colorado (Mr. MCINNIS), the gentleman from Oregon (Mr. WALDEN), the gentleman from Arizona (Mr. SHADEGG), the gentleman from New York (Mr. BOEHLERT), the gentleman from Oregon (Mr. DEFAZIO), and others tried to work on a provision. We ended up reporting from the committee a bipartisan agreement. Unfortunately, at the end of the session, it was not taken up by the Congress of the United States. But it did, in fact, focus the resources on the thinning around communities where we know these catastrophic fires can occur in terms of the loss of life and the loss of property. It expedited the consideration by the Forest Service and the Bureau of Land Management to make sure that decisions could be made on a timely basis so we could treat this threat when it was necessary, and it provided for robust public participation and critical environmental protections.

But that bill is in the past. That was not accepted. In our committee we had open debate. People offered amendments. The gentleman from Colorado (Mr. MCINNIS) went on a different tack this time. I did not agree with that. But it was done openly and it was done with the amendment process. But I have concerns with that legislation now, and I am worried that there are some huge differences between the Senate bill, which I think directs more of the resources toward the so-called urban interface where these catastrophic fires can happen. I want to make sure that we do that. I want to make sure, as the Senate did, that we authorize the money to be spent. I think the House bill is built on a bit of a fallacy and that is somehow that the timber value of the trees that are removed and thinned is going to pay for the fire treatment that is necessary. If you really believe that and if that is the basis on which you are going to operate, as does the House bill, then you would never get around to treating the lands in Southern California because they are not timberlands. There is no value to be extracted.

We were saying earlier, I think, in Texas, you hook up an anchor chain between two Caterpillar tractors and you drag it across the land when you want to get rid of this kind of scrub. That is essentially what you are going to have to do here. There is no value. This is going to cost Federal dollars. Like the Senate bill, we have got to authorize those moneys to be spent.

We also have got to recognize, as we see in Southern California, that this is a patchwork of public and private lands, that we have got to be able to go in and treat those public lands. I think we have got to figure out some cost-sharing with those private landowners, but we cannot let their neglect start fires on public lands or fires that get out of control. In the House bill, we do not address that. We must address that in the conference report.

I think that we have got to understand that time is working against us.

They say that we are going to be out of here on November 21. We cannot go into another fire year with Congress failing to address this issue. It takes time to lay out these treatment plans. It takes time to marshal the resources. Unfortunately, historically what we have seen is the money that is supposed to be used for treatment, the money that is supposed to be used for prevention is not put there because those accounts are raided to fight the fires that result because we do not treat them. We saw this unfortunate situation where California's Governor made application for money to treat the southern lands, many of the lands that burned, joined in bipartisan support from our delegation asking that this money be used, made the application many, many months ago, unfortunately turned down, and then we had the fires. Could we have been able to treat that? Some of it. Not all of it. Not by any means. But it takes time to move into these areas. It is going to take real resources. You simply are not going to be able to take enough timber off these lands if you do it properly and pay for the kind of treatment.

So Congress has got to understand after the disasters of California that I think most of the people in the United States would believe that this is an area of priority where America's government ought to spend money to protect America's forests, to protect the timber crops, to protect the recreational values, and to protect those communities that are now located in that catastrophic zone where fires can get out of control and we have no way to prevent the loss of life and of property.

I want to thank the gentleman from Virginia for his comments and for his understanding of what we are trying to accomplish with this motion in terms of an open and public conference committee, and I want to thank the gentleman from Texas for offering this. I also want to thank my chairman of the Committee on Resources, the gentleman from California (Mr. POMBO), for the manner in which we were allowed to debate this measure in the House. I would hope that this would not get sucked into this whirlpool of partisanship and the shutting down of conference committees, because this is a matter that is desperately important to so many of our communities in the timberlands and the wildlands of the United States.

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources who has worked so closely with us and has provided so much leadership. Being from the State of California, he knows full well the nature of the problem out there and knows this is a problem that exists across the country.

Mr. POMBO. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this motion to instruct. I would like to

start off by saying I agree with much of what my colleague from California (Mr. GEORGE MILLER) had to say. This is an extremely important piece of legislation, not only to the State of California because of our recent problems that we have had with wildfires in Southern California but we have also had wildfires in Northern California and throughout much of the West and quite frankly into the South as well in recent years. The reason that we have had those fires to a large degree has been because of mismanagement on the part of the Federal Government. It has been something that has drug on for and built up over the last 100 years, the management of our national forests, of our BLM lands. The decisions that were made in this body and by numerous administrations over the years led us to this point where we have an intolerable level of fuels throughout our public lands which has caused these fires not to be a natural fire but to be a catastrophic fire that goes in and burns areas.

I agree with my colleague from California that we cannot allow this to drift into some partisan whirlpool, I think was his comment. When I hear people in the other body saying that they are going to refuse to go to conference on this bill, that is intolerable. This is something that we should have acted on many years ago. I hear some of those in the other body saying that this is a carefully crafted bill that they spent weeks putting together. Well, this body has spent years putting this bill together, in doing the research and putting this bill together. The first bill, the healthy forest bill that was introduced in the House, was introduced in 1995. This has been something that we have been working on for a number of years.

A couple of years ago, the gentleman from Colorado (Mr. MCINNIS), the gentleman from Oregon (Mr. WALDEN), and others sat down and tried to craft a compromise that we could bring to the House floor. As we worked through that compromise, we were not able to get the other body to move along with us. We put together a bill and spent months and hours in working through and crafting a bipartisan bill.

As my colleagues on the House Committee on Agriculture have said, this was something that was passed bipartisan. I serve on the Committee on Agriculture. Yes, it was a bipartisan bill coming out of the Committee on Agriculture. It was a bipartisan bill coming out of the Committee on Resources. It was a bipartisan bill coming off the House floor. It was something that we worked extremely hard on to put together and craft a balanced bill. That is what we are going to conference with. All I ask is that those in the other body come to that conference with that same dedication, to craft a bipartisan bill, a bicameral bill that we can put on the President's desk. If we can do that, we can deliver something that will help the American people and

help to better manage our national lands.

Mr. STENHOLM. Mr. Speaker, I yield 7 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman for yielding me this time.

Mr. Speaker, inaction is not an option for this Congress. We must have this legislation as well as some other essential legislation before we leave town. I feel strongly about that. I felt more strongly, or as strongly, a year ago when what was previously the largest fire in recent Western history burned between my district and the district of the gentleman from Oregon (Mr. WALDEN), the Biscuit Fire. We entered into discussions last fall and came very close to bringing a bill forward into the House. Unfortunately, the clock ran out because of the elections. This year we are not operating under the imperative of pending elections. We can stay here as long as we need, and we should, to get this legislation done.

The Senate bill is not a perfect bill. It is not the bill that I would have written, but it is, in my opinion, in a number of areas, which I will touch on briefly, far superior to the House bill; and it does have a statement of support from the administration. So we know that if we were to just take up that bill and pass it from the desk, which is no longer an option having gone to conference, that we could enact it into law. So hopefully there lie the seeds of an agreement here.

Why do I feel that the Senate bill is superior? What I say briefly, and it is hard to quantify things around here a lot, but the Senate bill is 760 million times better than the House bill. Someone may say, how did you come up with that number? The Senate bill included a \$760 million annual authorization to do the fuels treatment. Why is that important? This is something that cannot be done for nothing. The House bill omitted any new funding for fuels treatment. The national fire plan, which is supposed to deal with these fuels issues, is chronically underfunded as the gentleman from California mentioned previously. So is firefighting. So every year the Forest Service is confronted with major fires; they then freeze and begin to borrow from other accounts and almost every year they borrow from the national fire plan fuel treatment accounts.

So instead of acting to prevent future fires, we borrow the money to pay for current firefighting because we always start the year underfunded on firefighting. This year was no exception. And despite the actions last week on other legislation, the Forest Service is still going to have to eat \$300 million of those fire costs out of its budget, which means reductions in recreation and in fuel reduction and other programs that are already underfunded. So we need a substantial sum of dedicated funds to deal with this problem.

The only good study out there was done at the Northwest Research Station in Oregon. They said, looking at the Klamath forest, which is fairly typical of a lot of the intermountain forests, dry, not a lot of commercial value in there but a tremendous amount of fuel accumulation, that after backing out the commercial value of anything removed, it would still cost \$1,684 an acre to do the work.

□ 1100

If they say there is 20 million acres that are critical and need work, that would be \$34 billion. So the Senate bill, at \$760 million a year, does not get all the way there, but it gets us down the road. It would provide for a big boost in rural communities for jobs to get people out there and do the work, because it would not pretend that we can do this for nothing.

Further, even more instructive, the President was to go to the Metolius basin to hold a press conference regarding the fuel reduction legislation this year. He could not because of a fire. But that Metolius thinning project was to be conducted of large trees of substantial commercial value in an area that is already eroded and virtually flat. But even given all that and given the fact there was going to be 20 million board feet of high-value commercial timber taken out of that fuel reduction, it was still going to cost a net of \$400 an acre for the Forest Service. So that just underlines the point that even in the areas where there is viable commercial timber to be removed, unless they remove it all, which would not make a lot of sense in terms of protecting the values of the forest and the old fire-resistant trees, they are not going to be able to do it without paying for the work. That would cost \$400 an acre. So inclusion for an authorization for funding hopefully at the Senate level, maybe even higher, would be absolutely essential to pass a bill that is going to get the job done.

Two other issues. I do not totally trust the government to always do what is right, no matter who is sitting in the White House. I did not trust the Clinton Administration to always do what was right. I do not trust this administration to always do what is right. And removing any right of meaningful appeal or judicial review is not an option, as far as I am concerned, in actions that affect public resources and the public generally, and the Senate bill does a much better job of preserving people's right to appeal and to go to court, but limits it so that there will not be frivolous appeals. It requires meaningful participation. And I believe if we adopted something like the Senate bill that there would be few, if any, appeals. And very few, if this is done right, successful appeals that would delay projects.

So the bottom line here is we do have the possibility of getting a bill done this year, and I believe we must get a bill done this year. It must include ro-

bust funding. That will not only begin to move us forward in dealing with this huge backlog of fuels accumulation and doing it the right way, leaving the large, old fire-resistant trees, returning the forests to more of a presettlement condition, a natural condition, but it will also put rural communities to work, and it will avoid sometime down the road, and unfortunately not immediately, some of these absolutely massive fires and massive costs that are incurred with the fires because after these forests are treated, fires can become more of a natural regime, and we will not have to fight them as aggressively. They will not present the threats to life and property that they do today.

So I am supporting this resolution with the hope that before this Congress leaves that we will have a viable bill that can be passed by both Houses by a large bipartisan majority and signed by the President of the United States, so we can begin this absolutely vital work before the next fire season.

I thank the gentleman for yielding me this time and for his indulgence.

Mr. GOODLATTE. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WALDEN), who has been a leader on this issue as well.

Mr. WALDEN of Oregon. Mr. Speaker, I would just like to commend my colleague from Texas for offering this motion to instruct. I think it is a valid one. I think it is an important one. I concur with his comments about the need to conduct this discussion in open and in a conference. It is probably misplaced in that where it really needs to be put is to our fellows and ladies on the other side of the Chamber in the sense that we need them to come to the conference. I think we have a reputation in the Committee on Agriculture and the Committee on Resources, as we have heard, about in the importance of working together, debating these issues, coming to closure in a fair and aboveboard and open way.

I want to point out too that when it comes to the issue of hazardous fuels reduction, we have heard a lot about how the Senate bill provides a \$750 million a year authorization, and, indeed, we know that authorization is important. What we never hear is the fact that in the underlying law, the law already on the books that provides for the national fire plan, there is already an authorization that provides for such sums as may be necessary to be spent for hazardous fuels work.

So in other words, the Department of Forestry and the Department of Interior both have the authority already under existing law to spend whatever sums are necessary that can be appropriated by this Congress to do the kind of work that we are talking about needs to be done. And in fact, in the last 5 years we have quadrupled in the Congress the spending on hazardous fuels work, recognizing the importance of doing this work. But so much more has to be done out there if we are going

to prevent the kinds of catastrophic fires we saw in California this year, that we have seen in Oregon year after year, and to get in and clean up these forests, to get the brush out, to get the ladder fuels out, so that we can have healthy forests, green forests, not black ones, so people are not forced to evacuate and lose everything that they have spent a lifetime trying to create around their homes, so that we can protect communities.

There are some issues in the Senate bill I have some disagreements with. They tripled the size of the bill, first of all, from 51 pages to 153 pages. Now, there are some editorial writers supporting the Senate bill, telling us in the House we had to adopt it before the Senate even finished amending it, which is kind of ironic. They have added protection for ginseng and Green Mountain National Forest Boundary and a prohibition on cock fighting, and Karst conservation in Puerto Rico, some things that are not normally considered prime topics when it comes to hazardous fuels reductions in Federal forests. I mean, I do not know what ginseng labeling has to do with hazardous forests, but we are dealing with the other body here, and we will accommodate them to the best of our ability. But our focus has to be on making sure we solve the procedural problems. In some of the hazardous fuels reductions projects the Members have heard about in my State today from my colleague, what was not mentioned was the fact that some of those very projects were appealed by groups while those places were burning this summer. The audacity. These groups are actually appealing a hazardous fuels project on the same day part of that proposed hazardous fuels project was burning. This is how out of control the appeals process is. This is why this legislation is so critical, and why we need to go to conference and act swiftly to pass it.

I thank the chairman for yielding me this time.

Mr. GOODLATTE. Mr. Speaker, I yield 6 minutes to the gentleman from Colorado (Mr. MCINNIS), the original chief sponsor of this legislation. We thank him for his efforts.

Mr. MCINNIS. Mr. Speaker, first of all, I would like to compliment the chairmen of the various committees. The gentleman from Virginia (Mr. GOODLATTE), in his committee he expedited this bill. He understood very clearly what the threats were out there not only just in the West but obviously threats in the East as well.

And this bill addresses not just fire hazards. Do not forget we have a very evil beetle out there, and these beetles go out there, and they are like a cancer on a tree. It is like once that beetle lands on that tree, that tree is dead, and that tree only has commercial viability for about 2 years. So if they cannot get that tree out of the forest within a 2-year period of time, two things happen. One, they are going to have to

pay somebody to take it out of there because it has no commercial viability for others to pay them to take it out of there; and, two, it is a cancer that is sitting there spreading not just to other dead trees, but to live trees. This beetle is wrecking havoc on our forests, and the chairman saw this. The chairman knows first hand, and I appreciate that.

The gentleman from California (Mr. POMBO), the chairman of the full committee, the Committee on Resources, of course, he comes from the State of California, which has just suffered devastating losses in the last 3 weeks. Myself, I come from the State of Colorado. The mountain I grew up on, the base, Storm King Mountain, several years ago we lost firefighters, 15 firefighters on that mountain. These fires are deadly things, and we must deal with them.

Fortunately, we have had great cooperation. I appreciate the gentleman from Texas's (Mr. STENHOLM) motion today to instruct the conferees. Although it is not binding on the Senate, perhaps it will give the Senate a little more incentive, as if the last couple of weeks the disasters in California were not enough incentive of its own.

And I must say that the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO), I can tell the Members if they set my voting record next to that of the gentleman from California (Mr. GEORGE MILLER) or, in fact, the gentleman from Oregon (Mr. DEFAZIO), outside of procedural votes, we probably disagree 95 percent of the time. These two gentlemen, along with the able leadership of the gentleman from Oregon (Mr. WALDEN), came to the table last year, and we had some of the best good-faith negotiations that I have seen in my elected history, and I have been in elected office for 21 years. The gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO) stood up, and they stood up to the radical environmental community, which is the only thing that is going to kill this bill.

Two years ago, as soon as the National Sierra Club and the Greenpeace and the Earth First! Organizations found out that the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO), the most ardent environmental supporters in the U.S. Congress, as soon as they found out that they were sitting down with the gentleman from Oregon (Mr. WALDEN) and with me and with the various chairmen, they said they had just joined the "chain saw caucus." If the Members want to know what is going to beat this bill, it is the persuasion that some of these organizations like the National Sierra Club are having on some of our colleagues in both of these Chambers.

It is imperative. We are very close to a compromise. We are very close for the first time in several years of being

able to go in and manage our forests. What has happened is we have taken the management away from the green hats. What are the green hats? I say that in a complimentary fashion. Those are the Forest Service people. Take a look at the U.S. Forest Service, stop any ranger anywhere in the country. Do the Members know what they are going to find out about their background? They are going to find out that ever since they were little they dreamed of being a ranger in the Forest Service. They went to college. They got a degree in forest management. They are in that forest every day of the week. They do not work for money. We do not pay them a lot of money. They work because they love the forest. They love that job.

Who do the Members think ought to be managing those forests? The National Sierra Club, which tries any obstacle they throw up? Do the Members think the United States Congress ought to be managing those forests? The people that ought to be managing those forests are the experts, the U.S. Forest Service.

We will continue to suffer massive losses as a result of fire and beetle kill if we do not let the Forest Service do what the Forest Service is best at doing, and that is in managing the forests. And that is what this bill does. But we do have a roadblock facing us out there. Our roadblock is the National Sierra Club, which has put everything into overdrive to try to stop this bill. They are saying to the general public they are going to cut down old growth. They are saying they are going to clear-cut, as if we are going into the Sequoia National Park and cut down those great big trees. They are saying this is all about lumber companies. Thank goodness, we have got somebody who will take that wood.

And by the way, there is not one person in this Chamber, there is not one member of the National Sierra Club, there is not one member of Earth First!, there is not one member of Greenpeace that does not use wood products. They sit at wood tables, by the way, to write us nasty letters. They live in a house that has got wood throughout the house.

The key here is do not let Greenpeace, do not let the National Sierra Club, do not let Earth First! block what is the most significant piece of forest legislation we have had in 2 decades. We have got very ardent support from very capable people from the environmental side of the U.S. House, the gentleman from California (Mr. GEORGE MILLER), the gentleman from Oregon (Mr. DEFAZIO), two very capable, strongly environmentally-oriented people. We have the gentleman from Virginia (Mr. GOODLATTE), the chairman of our committee, and the gentleman from California (Mr. POMBO), both, very strongly committed to the environment but with the understanding that we have to use common sense in the management of our for-

ests. That is what this bill is about. That is why this bill should be approved. That is why the gentleman from Texas's (Mr. STENHOLM) motion to instruct and get this done now while we have got a deal in line, that is why we ought to support this. So I stand strongly in support of that. I commend Members on both sides of the aisle. This bill has bipartisan support. It ought to pass, and we need to get into those forests and let our green hats do their job.

Mr. STENHOLM. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

□ 1115

Mr. INSLEE. Mr. Speaker, we are looking forward to a healthy, open conference. We hope this conference will set a new high standard in openness and bipartisanship in the House. But there are a couple things I think we need to talk about that are challenging us in bringing this bill to completion, and that is, first, a recognition that we have a severe resource limitation that is the real limitation as to what real treatment we can do on our forests, and that no matter what we do in this bill, the amount that has been appropriated to date still will only treat about maybe 2 percent of the acreage of the hundreds of thousands of acres that need treatment in our national forests.

That is an important point, because if we only have enough to do 2 percent of the acreage that really could potentially use thinning or other treatment in our forests, we have to really prioritize where we are going to do this work.

One of the elements we hope to talk about in our conference is how to prioritize this work where it is going to be most effective. That is why many of us have been talking about prioritizing our work to be in the areas where it will have the greatest benefit to save human life and human property, and that is in the wild-line urban interface and the areas closest to our towns, suburbs, and homes.

We will be talking in the conference about a way to focus our energies on those highest priority areas, because, if we do not, we risk really squandering some of it out in sort of the Timbuktu areas while we are losing homes in fires, as we have in California most recently. So that will be an element we hope to discuss in the conference.

Second, we hope to have a product that can be embraced by all points of the ideological compass. One of the things we hope to be able to accomplish is a description of the thinning that will assure that we are really doing thinning, rather than disguised commercial harvest. We think we can accomplish that in some fashion of taking off-limits the old-growth timber that gets us into political battles, rather than really furthering the effort to carve out or to thin out some of the litter brush on the forest floor.

Frankly, one of the problems we have of winning public trust for this program is the fear that this will be used as a guise to cut down 5-foot-in-diameter trees in some of our old-growth forests to finance this program. We hope we will come out with a final conference bill that will not be using old-growth timber to finance this program.

There are a lot of ways, probably 1,000 different ways, to describe old-growth timber. We need to find some. We need to assure the American public we really do have a healthy forest initiative, not a clear-cut initiative, and not a "let's get the old growth timber because that is where the most commercially valuable trees are." That should be doable. I look forward to working on a bipartisan basis to accomplish that.

Mr. GOODLATTE. Mr. Speaker, I yield myself 30 seconds just to say to the gentleman from Washington, I appreciate his comments; but I would point out that with regard to the old-growth forests and the 5-foot-diameter trees that the gentleman referred to, nothing in the legislation that the House passed, much less anything in the Senate bill, would override the Northwest Forest Plan that protects every old-growth tree in the entire Northwest. It does not override any forest plan anywhere in the country. So the gentleman should rest assured that this legislation is not going to affect the type of tree that he described to us a few minutes ago.

Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, since there still is embolded in large cast letters above your chair the words "In God We Trust," maybe it would be appropriate for me to note for the Sierra Club or Earth First! and Greenpeace that if they will go and read the Biblical account of creation, they will find that when the Lord placed Adam and Eve in the garden, he charged them to dress and keep the garden. The point is that even in a perfect world, the Lord recognized there was a need for man to intervene in the process of nature.

So I hope these groups will take that into account and note that that is exactly what this bill does, and it is all that this bill does, is to appropriately intervene in the process of nature to benefit the forest.

The other body has passed a similar bill, of course, with a lot of extraneous material, most of which costs money. I know you are going to want to prune a lot of that out. I hope there is one little piece of that extraneous material that survives the pruner's knife, and this is a little piece of legislation that has to do with animal rights. It simply enhances the penalties for interstate commerce in cockfighting and dog fighting. It costs zero dollars; and it will do a lot of good, because now these crimes will be prosecuted.

So my congratulations for a really good bill. I hope that this little animal

rights addition in the Senate survives the pruner's knife.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will just say very briefly that this motion to instruct conferees offered by the gentleman from Texas is very welcome. It is exactly what we need. We hope the message is received, not only here on the House side, but also on the Senate side, that we will work together in an open conference, across party lines, and we will work together with the Senate to accomplish that. But it is absolutely essential that the Senate take the same step that we are taking here today and do it as quickly as possible so we can meet the timetable put forward by the gentleman from Texas.

Secondly, it is absolutely important that the message go out that this Congress on this issue has worked together, and worked together very well. The place where we find the extremism that some have expressed concern about has been on the outside, the organizations like Greenpeace and the Sierra Club and Earth First!, extremists who send the mail to so many people.

We have all seen it. It is designed to raise money for these organizations. If they said that the gentleman from California (Mr. GEORGE MILLER) was meeting with the gentleman from Colorado (Mr. MCINNIS), who has very different points of view, to work out their differences, do you think that would generate a lot of revenue for these organizations? I think not.

What they do is try to portray this legislation and this Congress as being extremist. That is wrong, and that is where the problem lies. We need to reject that. We need to reject the falsehoods that are being portrayed about the legislation on the outside, to work together in the interests of the American people, work together in the interests of our national forests here on the inside to produce a final product that will really address a severe crisis that we have.

It is time to stop that kind of game playing, and it is time to get serious about addressing this problem. We are so close to something that we have sought for so long that we should not allow that outside rhetoric, that outside pressure, to deter us from what needs to be done.

What needs to be done is exactly what the gentleman from Texas has described in his motion to instruct. We need to meet, we need to meet openly, we need to meet now, and we need to produce a product that works out the differences between the House and the Senate by next Thursday.

Mr. Speaker, I urge my colleagues to endorse and support this motion to instruct conferees.

Mr. Speaker, I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would just say I appreciate the tenor of this discussion and

debate today, because that is exactly what we intended from this motion. It is the history of the Committee on Agriculture, working with other committees, to let the process of the House of Representatives work its will and come together in compromise.

Compromise has never been a four letter word to me or to anyone else in this body. It means that some have to give on some very strongly held beliefs. Sometimes it means to have to say no to some of the organizations who take a great deal of interest in this process.

My friend from California mentioned a moment ago that down in my district, when we clear out the underbrush, we take two Caterpillars and a string of chain between them and drag it across it. I want to go a little further with that. We do that for a different reason; we do that to preserve moisture.

In fact, we have a couple of bills pending right now, working with my colleague, the gentleman from New Mexico (Mr. PEARCE), on salt cedar. In areas of arid Texas and New Mexico and Colorado and other areas, more New Mexico and Texas in this instance, we have a need of controlling brush to preserve water so that our people will have something to drink.

But here a little novel idea just popped into my mind, because when we clear brush in Texas, many times the landowners pay for all of it themselves, if they can, and many of them can and do. They expect no one to come in and help them clear out the trash on their own land.

In many cases though we have cost-share. We have programs that are set up that are designed to provide cost-sharing. We have got an excellent one going in Texas, in which the State of Texas puts up a share of money, the local landowner puts up a share of money, in some cases the local county puts up a share, and the property owner is expected to put up their share of the money. The Federal Government then puts up its share.

This is an idea that I think we ought to pursue as we go into a conference on this, because the gentleman from California is exactly right, we are not talking about forest lands in the area many a time that have been burning recently in California. We are talking about a different kind of problem that needs to be solved, and can be solved, if we would just put our shoulder to the wheel and solve it.

Resource limitations are very real, that is true; but also doing nothing is not an option. Even though in my district we do not have any forests, I recognize the importance of the work of the gentleman from Virginia (Mr. GOODLATTE), the gentleman from California (Mr. POMBO), the gentleman from Oregon (Mr. WALDEN), the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Washington (Mr. INSLEE), all of my colleagues that have spoken today.

Everyone now recognizes that this debate has gone on longer than it

should. We are that close. We have two bills. It is not impossible. In fact, it is more than possible that we can achieve what we are saying with this motion to instruct today. It will just take the sincere dedication that we know we have on the House Committee on Agriculture, working with the Committee on Resources. And I know it exists with the Senate. We have always had, when it comes to agriculture, an excellent working relationship to go to conference, to work it out. That is exactly what this motion does. I hope the House will accept it.

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, when I was talking about dragging the chains across the desert, I did not mean that to be derogatory. That is a practice that works. In California, we cannot criticize that, because then we take the mesquite and turn it into mesquite charcoal for those oven-roasted, free-range chickens.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, I took it exactly like the gentleman meant it. It was a compliment. I appreciate the support in this, because in many cases some of the folks do not agree with us on doing that either.

Mr. GOODLATTE. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, if the gentleman will provide the mesquite, we will provide the chickens.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, one of the requirements that I have had all along in this is do not muck around with my mesquite trees, whatever you do. But now we are talking about a very good, constructive use of mesquite trees. We have now got delineated, outlined clearly, how we can provide more of it, and we have a market for it, so I already see some benefits to this bill that are going to accrue to the 17th Congressional District of Texas in the new market for mesquite trees.

But here let us get back to seriousness. I hope we can do what this motion does.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Agriculture, for consideration of the House bill and

the Senate amendments, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, JENKINS, GUTKNECHT, HAYES, STENHOLM, PETERSON of Minnesota and DOOLEY of California.

From the Committee on Resources, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. POMBO, MCINNIS, WALDEN of Oregon, RENZI, GEORGE MILLER of California and INSLEE.

From the Committee on the Judiciary, for consideration of sections 106 and 107 of the House bill, and sections 105, 106, 1115, and 1116 of the Senate amendment and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and Mr. CONYERS.

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1829.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 428 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1829.

□ 1130

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a 5-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes, with Mr. SHAW in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and

the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Federal Prison Industries, or FPI for short, was first authorized in the 1930s to require Federal agencies to buy goods made by inmates in Federal prisons. The purpose of FPI was to ensure work and training for prison inmates by guaranteeing a market for prison-made goods. Although Federal Prison Industries may have started with good intentions, it has been surrounded by controversy since its inception.

FPI enjoys a mandatory market for its goods, a government facility to produce them in, and pays its workers less than the minimum wage to manufacture them. A guaranteed market for its products and reduced costs for labor and capital clearly amounts to an unfair advantage when put in direct competition with private industries. As Members of Congress, I believe it is our duty to protect the pocketbooks of taxpayers by ensuring that the Federal Government is not misusing taxpayer dollars. I believe it is also our duty to protect American business and workers from unfair competition by the Federal Government.

FPI is a large, government-owned corporation. It currently operates 111 factories at 71 of its correctional institutions where it produces goods in over 150 product lines under the trade name UNICOR. It offers approximately 150 broad classes of products and services through eight business groups. And there is no question FPI hurts private industry. For example, in fiscal year 2002, the FPI sold over \$210 million in office furniture, representing a 17.2 share of the office furniture market nationwide.

Since I was first elected to Congress, I have been working to correct the situation with FPI and level the playing field for private industry. I became interested in this issue out of concern for small businesses in my district in Wisconsin. Two businesses in my district were shut down as a direct result of competition from FPI. Other businesses sought my help when FPI threatened to come in and begin manufacturing small engines. Over the years, I have received dozens of letters complaining about FPI and asking Congress to eliminate mandatory source in favor of a more competitive market for Federal agency business. Because of these concerns, it is not surprising that industry and labor have joined Members of this body in seeking reform of Federal Prison Industries.

Mr. Chairman, H.R. 1829, the Federal Prison Industries Competition and Contracting Act of 2003, is a bipartisan solution to reform prison industries. This legislation would alter the way FPI does business by requiring that FPI compete for its business opportunities. Currently, all Federal agencies

must purchase products offered by FPI, which is commonly referred to as FPI's "mandatory source" status. FPI, rather than the buying industry, currently determines if FPI's offered product and delivery schedule meet the needs of the buying agencies.

Now, just stop and think about that. There we have the manufacturer rather than the customer deciding whether or not the product and the delivery schedule meet the needs of the agency that is supposed to buy the product. That does not happen anywhere else in our economy. FPI, rather than the buying agency, determines the reasonableness of FPI's offered price.

Now, think about that again. There we have the seller saying this is the price you have to pay and the buyer has no choice but to pay that price. This is not the way the Federal Government should do business. And, it increases our Federal budget deficit.

This bill would gradually phase out the exclusive right of FPI to sell goods to Federal agencies by October 1, 2008. The bill also changes the manner in which FPI sells its products and services through the various Federal departments and agencies. During the phaseout period, FPI would be required to provide the agency with the product that meets its needs at a "fair and reasonable price" and in a timely manner.

H.R. 1829 would establish new competitive procedures for government procurement of products and services that are offered for sale by FPI. It would require that FPI sales to Federal agency customers be made through contracts won on a competitive basis for both products and services. Like other suppliers to the Federal Government, FPI would be required to fulfill its contractual obligations in a timely manner.

In order to ensure that inmates are not idle, there are provisions in the bill that provide funds for inmate rehabilitation and training. To address any concerns regarding prison safety and the safety of correctional officers, there are provisions in this legislation which allow the Attorney General to authorize mandatory source contracts for prisons where a safety risk exists.

These common sense approaches to reforming prison industries will allow FPI to continue operations, but will not allow it to continue to overcharge Federal agencies and American taxpayers, and it will not allow it to continue to have an unfair advantage over small business with a guaranteed contract, an unfair advantage that throws law-abiding, tax-paying citizens out of work. FPI will be able to compete with the private sector because it will still be able to pay subminimum wages and will not be required to provide health insurance or retirement benefits for its workers.

It is time to create a more balanced playing field for business and industry when it comes to government procurement and, at the same time, give our Federal agencies the ability to use tax-

payer dollars in the most efficient manner possible.

The barriers to entry that mandatory source creates prevent the establishment of new businesses and new jobs. Reforming this program and eliminating mandatory source will help create jobs for law-abiding, tax-paying citizens.

Mr. Chairman, I urge my colleagues to join me in supporting this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Federal Prison Industries program, or FPI, has been around since the 1930s. Under the law, Federal agencies are required to buy needed products from FPI if FPI can meet their order. The purpose of the program is to teach prisoners real work skills so that when they are released from prison, as they ultimately will be, they will be able to find and hold a job, they will be able to support themselves and their families, and they will be less likely to commit additional crimes.

It is clear that the program works to do just that. Follow-up studies covering as much as 16 years of data have shown that inmates who participate in prison industries are 14 percent more likely to be employed and 24 percent less likely to commit crimes than others who did not participate in the program. While this certainly benefits offenders and their families, there is a more important public policy perspective, and that is that the real benefit for all of us is that as a result of the program, they will be less likely to commit crimes. We are prepared to spend billions of dollars in prison construction and prisoner upkeep in our efforts to reduce crime. This is a program that reduces crime while it pays for itself.

Now, H.R. 1829 will result in fewer inmate jobs with increased taxpayer costs and an increase in crime. The CBO estimates that it will cost over a half a billion dollars with at least \$177 million of that in additional security costs to guard the inmates who are made idle by this bill. The other part of the half billion dollars is attributable to the cost of vocational education and other alternatives to replace FPI when those jobs are lost. However, nothing guarantees that the half billion dollars will actually be funded, other than the phantom promise of an authorization in the bill.

In addition to the half billion dollars of taxpayer funds for a program that now costs taxpayers nothing, there are other big losers in the bill. About 75 percent of the roughly \$600 million that FPI takes in goes back into the purchase of raw materials, equipment, and services from the private sector businesses in order to purchase supplies for FPI products. There are thousands of these businesses and they hire thousands of workers. Over 60 percent of

them are small, minority- and women-owned, disadvantaged businesses. For many of them, FPI is their only client. So a high number of these private sector jobs held by law-abiding citizens will be gone immediately with the elimination of mandatory source of FPI, since there will be no reliable FPI revenues or orders.

And when these jobs are lost, they will not be made up by the business leaving FPI and going into other private businesses. The whole of the FPI revenues constitute less than one-quarter of 1 percent of Federal agency purchasing, about the same as it was in 1935. With the entire private sector market and 99.75 percent of the Federal market, spreading the remaining one-quarter of 1 percent of the Federal market over all of the private sector businesses is not likely to create any jobs. It will simply be absorbed in the existing workforce with little effect on work levels. Less than 25 percent of Federal agency purchases go to small businesses, so the bulk of the business taken away from FPI will go to big business, be absorbed, and not create any businesses to offset those that are lost.

Now, critics say that FPI has resulted in substantial job losses for law-abiding citizens. The furniture and apparel industries are two of the industries most often cited. But when asked, representatives of these industries conceded that FPI sales represent an insignificant or negligible portion of their industries, and if such industries are having problems, it is not due to the impact of FPI. I have been told that 600,000 jobs were lost over the last 10 years in the textile industry. There are roughly 7,000 prisoners working in textiles in FPI, and certainly we cannot blame a few thousand prisoners for the loss of 600,000 jobs.

All able-bodied inmates in the Federal system are required by law to work. Few offenders enter prison with marketable work skills. The vast majority do not have credible work habits such as showing up for a job and working cooperatively and productively with others. Such habits are required to maintain an FPI job. These are the same requirements and same habits required to be productive in desirable workers anywhere, and that is why inmates with FPI experience have been found to be significantly more employable than those who do not.

With the elimination of parole, with the elimination of good conduct credits, Pell grants, and the elimination of other incentives, the Federal Prison System has little to offer to a prisoner for self-development. One shining exception is FPI. Non-FPI inmate jobs pay about 12 cents an hour to about 30 cents an hour, while FPI jobs pay up to \$1.25 an hour and are not paid for with any taxpayer money. To hold down an FPI job, an inmate must have completed high school or be making steady progress toward obtaining a GED, and maintain a record of good behavior.

This is true not only for those already in an FPI job, but also for those on the waiting list, as well as those who are trying to establish eligibility to be placed on the waiting list.

Some have suggested that vocational education is a good substitute for FPI work experience. While the vocational experience is important and ought to be available to all inmates who can benefit, not all inmates can benefit, and the timing is important for those who can. The average sentence for prisoners in the Federal system is 8 years. The average length of a vocational education program is about 2 years or less and is generally thought to be better delivered towards the end of the sentence, right before release. In any case, the question becomes what to do with the other 6 years of the sentence prior to or after completion of vocational education. And the next question, of course, is who is going to pay for the vocational education. The FPI program pays for itself.

I am the first to concede that there are problems with FPI which should be fixed. When a small business making a single product already has a government contract and depends on the continuation of that contract for its viability, the FPI should not be able to take that business away through the use of mandatory source.

□ 1145

But this bill should be fixing the problem, not gutting it by taking away all of FPI's primary business sources all at once. While the bill suggests that lack of competition is the problem, it takes away FPI's ability to provide services, even though services have to be provided on a competitive basis. There is no mandatory source provision for services; there is just for products. The bill prohibits FPI from providing services to businesses even when there is no business or labor in the United States interested in providing the service.

We are already seeing the effects of the Department of Defense restrictions on FPI procurement that we passed last Congress. Information from the program indicates that it has already had to close 13 factories and eliminate over 1,700 inmate jobs. They expect to eliminate 500 additional jobs before the end of the year.

Now, we should fix the problems, but we should do so in a way that assures the viability of a vital crime-reducing program. The GAO has been asked to study the impact of inmate employment, prison security, private and public employment, and public safety. The information will be available in April. With these issues at stake, we should not demolish a program with a record of contributing significantly to prison security, inmate and private job generation and public safety without first assessing the study information.

Congress has the oversight responsibility for the safe and efficient operation of our prisons and for the protec-

tion of the public from crime. Real work opportunities in prison have been shown not only to provide for safer, more manageable prisons, but also for substantially less recidivism upon release among those inmates who participate in FPI.

It costs the taxpayers nothing. If we are going to eliminate the program, we should put viable options in its place and wait for the results of the pending GAO study to determine what those options are. This program was created in the midst of the Great Depression when jobs were at their lowest point. We should not toss it aside just because it has a few problems. We should fix the problems.

Now, we can do better than this bill, Mr. Chairman, and we certainly should.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. EHLERS.)

Mr. EHLERS. Mr. Chairman, I rise in strong support of H.R. 1829, legislation that has been a very long time in coming. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, and the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary, for moving this bill forward; and I particularly want to thank the gentleman from Michigan (Mr. HOEKSTRA), my colleague and friend, for his steadfast work on this issue.

This bill will provide much-needed relief for manufacturers in my district and across the country that have faced the anticompetitive and unfair practices of Federal Prison Industries for too long. By eliminating FPI's current status as a mandatory source to various Federal agencies and requiring FPI to compete for its contracts, H.R. 1829 will ensure that all private sector businesses can bid on Federal contract opportunities that are funded with their tax dollars, not just those companies who first enter into contractual relationships with FPI.

For those who argue that this legislation is inappropriate or that Congress should delay action and rely on administrative reforms, let me describe one recent incident involving FPI and a business in my district that illustrates why we must pass this legislation.

The fundamental flaws in this mandatory source rule were clearly evident during a procurement for office furnishings associated with the renovation of the new headquarters of the Federal Aviation Administration. Through the GSA, the FAA conducted a fair and open competitive bidding process to identify the supplier whose entire proposal represented the best value for the FAA. The GSA then selected the winning private sector contractor based on the FAA's specific needs relating to both types of products and installation schedules.

As required by FPI procedures, the complete proposal for the winning con-

tractor was then sent to FPI for review. FPI took the contract by simply matching the price of the winning bid to the penny. The FAA and GSA were left with little recourse and, for all practical matters, had to accept FPI's decision, despite the fact that they thought the private sector bid would better fit the FAA's needs and would be a better value than FPI-supplied furniture. Furthermore, FPI planned to subcontract much of the work to furniture companies whose products did not match the design and quality of the winning bid.

This contravention of the fair and open competitive bidding process was eventually resolved through vigorous congressional intervention, and the private sector contractor was awarded the FAA contract. But this situation serves as an example of how FPI's unjust procedures completely undermine fair and competitive bidding and eliminate a purchasing agency's prerogative.

The reforms in H.R. 1829 are absolutely vital for ending this type of abuse and restoring integrity to the bidding system.

I understand and fully support the need to provide prisoners with meaningful work that can help the rehabilitation process. But it should not be done in a procedurally flawed manner, and FPI should not unfairly compete with private sector bidders.

It is important to note that FPI is only one of several programs within the Bureau of Prisons that provides meaningful work and skill-developing opportunities to prisoners. The difference is that FPI does so at the expense of the jobs of hard-working, law-abiding citizens. Finally, I am pleased to note that this bill contains several provisions to help inmates transition back into society, including enhanced access to vocational training and employment assistance programs.

The FPI program is unfair, wasteful and desperately needs reforming. I urge my colleagues to vote in favor of this critical legislation.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as we look at this bill, it certainly appears to respond to an issue that I have great concern with and that is, of course, the idea of the promotion and elevation of small businesses. I think my record is fairly clear in this House, Mr. Chairman, that I support that. But I am concerned as well about the substance and purpose of the Federal Prison Bureau Industries.

Just a couple of months ago I took the opportunity, Mr. Chairman, to visit one of our Federal detention centers, prison centers, maximum, minimum, and medium security, walked through the hallways and looked at their facilities. There was not a prisoner there that did not talk to me about the value of prison industries, the ability to do something with your hands, your mind.

I looked at the less-than-sufficient computer stations, if you will, and, of course, somebody will say this is not a vacation home, and I realize that. But we realize that prisoners are family members. They are Americans. And they will be let out.

There is a distinction, of course, between those who perpetrated heinous and horrific crimes. We know that there are some serving lifetime sentences. But it is documented, Mr. Chairman, that the prison industry is a valuable component to rehabilitation but also a valuable component to providing services in the community.

We also know that the Federal Prison Bureau contract out responsibilities to local businesses. So it is a partnership. And what I am concerned about is that this particular legislation will find a way to undermine that relationship and that infrastructure and further deny those who seek to rehabilitate the opportunity to rehabilitate.

Let me say this, that I appreciate, however, the consensus effort that has been made by the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the committee, and the ranking member, the gentleman from Michigan (Mr. CONYERS), and the chairman of the subcommittee and the ranking member of the subcommittee. There has been good work on this bill.

I am grateful to note that there is a provision that asks for a study regarding this issue of good time for non-violent prisoners. Individuals whose hands I shook when I went in, parents who asked me about their young people who were in simply for drug possession long years because they were simply standing on a street corner, not using, but possessing. And so there are some elements that I think we can work on.

But let me remind my colleagues that it is clearly a challenge to balance the necessity of over half a million inmates. Rehabilitation, education, are key components of them being able to integrate into society. You have never seen anything worse than to go into those systems, as I did, and walk the hallways and walk the courtyards and see large segments of men, mostly standing idly by doing nothing, and having them beg you, can we find something to do. They took away the exercising equipment in some instances, televisions are coveted. So give them something to do.

And Federal Prison Industries is a very successful entity. It provides job training opportunities, and it is valuable.

Mr. Chairman, let me just say this: I wish we could compromise more. I hope we can work through this legislation to balance the needs of all who are in need of training and opportunities.

Mr. Speaker, I rise in opposition to this bill, H.R. 1829, the "Federal Prison Industries Competition in Contracting Act of 2003." In a markup of the full Committee on the Judiciary in July of this year, my colleagues on that Committee voted to accept two of my amendments that speak to the issues of the bill's

elimination of the "mandatory source preference" and inmate "good time" for the nature of offense and good behavior, and those amendments have been incorporated into Sections 15 and 16 of the current bill text respectively. Prison reform is an important matter that deserves serious attention by the House before it considers passing this important legislation.

Over 2 million offenders are incarcerated in the Nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come.

The Bureau of Prisons of the U.S. Department of Justice administers the Federal prison system. Clearly, the Bureau is expanding the capacity of the Federal system in anticipation of accommodating an inmate population exceeding 178,000 by the year 2006. Clearly, the overcrowding of prisons is a serious matter.

To illustrate the impact that this bill will potentially have on Texas, the Federal prison population for the years 2000, 2001, and 2002 reached 39,679, 36,138, and 36,635 persons respectively; the State prison population for the same years reached 20,200, 20,898, and 23,561 persons. These numbers have grown since 2002, so the impact is indeed significant and the State of Texas is an important stakeholder.

In 1934, Congress established Federal Prison Industries (FPI). FPI is a government corporation that employs offenders incarcerated in Federal prisons. FPI provides job-training opportunities to Federal inmates in the form of goods production and services for Federal agencies. Currently, the State of Texas alone employs 7,700 inmates in prison industries. Nationally, 25 percent of those held in Federal prisons are employed by FPI. Items produced by inmates include furniture, metal products, textile items, optical and plastic hardware, and electronic cable assemblies. Inmates are also able to use automated systems to prepare data and information aids.

By statute, FPI products and services must be purchased by Federal agencies (a requirement referred to as a "mandatory source" or "sole source") and not available for sale in interstate commerce or to non-Federal entities. Federal agencies can obtain products from the private sector through a waiver issued by FPI if the corporation is unable to make the needed product or provide the required service.

FPI is a self-supporting government operation. Revenue generated by the corporation is used to purchase equipment and raw materials, pay wages to inmates and staff, and expand facilities. Last year, FPI generated over \$566 million in revenue, \$418 million of which went to purchasing goods and services from the private sector, 74 percent of which went to small and minority owned businesses in local communities across this country.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic. This is certainly important.

On the other hand, there are some groups that represent working Americans that suggest

that job opportunities, particularly jobs needed by low-income families, are lost because FPI receives Federal contracts. Although current law prohibits FPI from dominating the Federal market, and there are currently congressional mandates placed on FPI to "avoid capturing more than a reasonable share of the market" among Federal agencies, departments, and institutions for any specific product, determining the appropriate share of the Federal market remains contentious. Nevertheless, we must endeavor to take into account the concerns by working Americans across the Nation so that we can pass a bill that simultaneously protects jobs and keeps inmates productive.

The bill before us today provides for a five-year phase-out of mandatory source preference by granting to FPI's Federal agency customers authority to first solicit on a non-competitive basis. However, at the end of the phase-out period there is no existing substitute for the services and program. Looking to the States, there simply is not enough program participation to accommodate the 25 percent that is currently accommodated under FPI.

OPPOSING VIEWS TO FPI AND RESPONSES

Some who support H.R. 1829 would argue that eliminating the FPI mandatory source preference will help small business. However, H.R. 1829 will have an adverse impact on the many small businesses that provide raw materials, equipment, and other services to FPI factories. Must of the adverse impact of H.R. 1829 will fall on private sector small businesses. FPI would not exist, and certainly could not offer quality products and services, without the direct support of private sector companies that provide raw materials, equipment, and services that FPI needs to produce its products. Each of these private sector companies responded to solicitations issued by FPI and were awarded the contracts through competitive procedures.

During FY 2002, FPI spent 74 percent of its \$680 million in sales revenues (that is, \$503 million) on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases (that is, \$311 million) were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small business. From 1997–2001, FPI has awarded \$851 million in contracts to small business, which is a yearly average of 57 percent.

Those who support this bill from the office furniture and apparel industries argue that FPI controls too much of the Federal procurement market and is taking away significant levels of Federal government business from those two industries. However, FPI is neither a procurement giant nor is it taking away significant levels of Federal business from the office furniture and apparel industries. FPI's total sales revenues (\$680 million in FY 2002) represent only a very small percentage of the total Federal procurement dollars. FPI revenues represent one quarter of 1 percent of total Federal agency procurement dollars and only 4.5 percent of the overall Federal market in the 250 products it produces within the Federal supply—a very small fraction. The office furniture and apparel industries are the two industries in which FPI produces the highest

volume of work. In the Dissenting Views section contained in H. Rept. 108–286, the House Judiciary Committee report concerning this bill (H. Rept. 108–286), we see that “when asked, representatives of these industries conceded that FPI sales represent an ‘insignificant’ and ‘negligible’ portion of their industries, respectively.”

Supporters of H.R. 1829 from private sector labor unions argue that the elimination of the FPI mandatory source preference authority will help labor union workers get back jobs that have been lost over the past decade. However, H.R. 1829 will adversely affect both Federal and private sector labor union workers, and it will not get back the jobs that have been lost. H.R. 1829’s elimination of the FPI mandatory source preference will adversely affect the 33,000 Federal corrections officers and other Federal employees who work at the 101 prison facilities in the Federal Bureau of Prisons system. These 33,000 Federal employees, who are represented by the American Federation of Government Employees, AFL–CIO, know that eliminating the FPI mandatory source preference authority will undermine the FPI prison inmate work programs—and thereby create substantial problems for the safe and secure operation of Federal prisons. This bill’s elimination of the FPI mandatory source preference also will adversely affect the approximately 5,000 U.S. workers—many of whom are represented by labor unions—who are employed by those private sector companies that provide FPI with raw materials, equipment, and other services. It is indisputable that certain U.S. industries have lost a great many jobs over the past decade. But these industries have lost jobs not because of FPI. For example, 600,000 textile jobs have been lost over the past 10 years. There are only about 7,000 prison inmates working in FPI textile factories. Clearly, the blame for the loss of 600,000 jobs cannot be placed on a few thousand Federal prison inmates. The same is true in the office furniture business. The real blame should be placed on the adverse impacts of globalization and unfair trade, not on FPI.

While there are other initiatives which may accomplish the goal of eliminating the mandatory source preference more quickly, I believe we can work together to reach a compromise that is both timely and also enhances opportunities for U.S. workers. We may not all agree on the specific phase-in period but let us try to find a workable solution on this critical issue.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. WOLF.)

(Mr. WOLF asked and was given permission to revise and extend his remarks.)

Mr. WOLF. Mr. Chairman, I rise in opposition to the bill. Before I make some comments, let me say I have great respect for the gentleman from Michigan (Mr. HOEKSTRA). He is a good person. So we just have differences. I think this is not the way to go.

Secondly, I think the administration and the Justice Department, their failure to take a position on this bill is morally reprehensible. When they have a fiduciary relationship in running these prisons and not to say anything, what can I say.

Winston Churchill said one of the best tests of whether we are truly a civilized people is the temper, the mood of the public in regard to the treatment of crime and criminals.

As somebody who is proud to be a conservative, and a compassionate conservative, and somebody who has worked in prisons—before I got elected I was involved in a program at Lorton Prison called Man to Man where we would go down and counsel people—knowing what this bill could do, I think this bill should be defeated.

You cannot put a man in prison for years and expect him to be rehabilitated without work. The Bible says, “Remember the prisoner as though in prison with them.”

This bill would make it difficult to operate a prison. Inmates without work who are idle are prisoners that are going to later come back and commit a crime. This bill also has major budget impacts. To those on my side of the aisle who talk about balancing the budget, the cost of this bill over 5 years will be \$500 million.

Rehabilitation. Inmates who participate in prison work are less likely to repeat and less prone to violence.

Also, at election time everyone wants to be with the Fraternal Order of Police. It is sort of amusing. My dad was a policeman in the city of Philadelphia, very active in the Fraternal Order of Police. Politicians always like to get the FOP’s endorsement. The FOP says, “The FPI is the most important correctional rehabilitation program of the Bureau of Prisons. Not only does it provide Federal inmates with marketable skills,” then it goes on to say it opposes this bill.

Lastly, Chuck Colson who runs Prison Fellowship, who I admire, who frankly has forgotten more about prisons than anybody in this institution on either side knows, sent a letter about this bill where he said the following: “We regret that we must oppose your prison work legislation. We applaud you for working to reform Federal Prison Industries, and your bill makes many good and important reforms. In fact, we did not oppose bringing your bill to the floor because we think this important issue needs to be debated. However,” and they underline, “your bill does not set up an alternative system.”

That is the key. There is no alternative system “for replacing the jobs that will be lost when your reforms are implemented. That would be tragic, and it is for this reason that we must oppose your bill.”

He goes on to say, “Prison work programs are an essential part of changing prisoners’ lives.” We cannot put a man or woman in prison for all of these years and then expect them to come out with a changed life. They end by saying, “We advocate work programs because they are beneficial to society.” How we treat them in prison will determine what type of neighbors they will be.

Mr. Chairman, I will submit these letters for inclusion in the RECORD.

If this bill is not amended, I believe, and I may be wrong, that this bill, as surely as the night follows the day, will make it very difficult to operate prisons and will result in men not having the rehabilitation and the dignity, which I predict will lead to more crime in these United States.

This bill raises the issue of job loss, but the enemy is China, and yet this bill does not deal with China. The enemy here is China. The jobs are leaving and going to China. The furniture business took a gun and fired it at the FPI when China is really to blame.

The letters previously referred to follow:

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, November 4, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: In light of this week’s scheduled vote on H.R. 1829, the “Federal Prison Industries Competition in Contracting Act,” I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our position regarding efforts to reform this vital Federal program. While the F.O.P. has in the past supported legislation providing for appropriate reform of the statutes and authorities governing Federal Prison Industries (FPI), we cannot support H.R. 1829 in its current form.

The F.O.P. believes that FPI is the most important correctional rehabilitation program of the Bureau of Prisons (BOP). Not only does it provide Federal inmates with marketable job skills, it also assists with the efficient operation of correctional facilities. But most importantly, FPI promotes a safer environment for the thousands of correctional officers who work in BOP facilities. Thus, for our organization, any reform proposal must first be viewed from the perspective of its potential impact on both the safety of Federal correctional officers, and the safety of the public from recidivist offenders.

In addition, any reform proposal approved by Congress should provide for the complete reform of the FPI program—addressing the current law’s “mandatory source” provisions and increasing opportunities for inmates to gain meaningful employment through the prison industries—while guarding against changes which would negatively impact the program’s value. For example, in the 107th Congress legislation was enacted which placed certain restrictions on the Defense Department’s procurement from Federal Prison Industries. According to the views of some members of the House Judiciary Committee contained in the report on H.R. 1829, “information obtained from the program indicates that it has had to close 13 factories and eliminate over 1,700 inmate jobs and expects to eliminate 500 additional inmate jobs before the end of this year,” as a result of this particular reform effort. Clearly, this raises important concerns about the safety of correctional officers and staff in the facilities which have experienced these losses.

Finally, in order to ensure the continued success of Federal Prison Industries following any major changes to the current program, any reform measure should also contain a provision that provides for the ongoing review of the health of the program. Such a provision should authorize the revival of current law if, after a given number of years following enactment, less than twenty-five percent of eligible inmates are employed by Federal Prison Industries.

On behalf of the more than 310,000 members of the Fraternal Order of Police, thank you in advance for your attention to our concerns on this important issue. Please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if we can provide you with any additional information.

Sincerely,

CHUCK CANTERBURY,
National President.

PRISON FELLOWSHIP MINISTRIES,
Reston, VA, November 3, 2003.

Congressman PETER HOEKSTRA

DEAR CONGRESSMAN HOEKSTRA: We regret that we must oppose your prison work legislation. We applaud you for working to reform Federal Prison Industries, and your bill makes many good and important reforms. In fact, we did not oppose bringing your bill to the floor because we think this important issue needs to be debated. However, your bill does not set up an alternative system for replacing the jobs that will be lost when your reforms are implemented. That would be tragic, and it is for this reason that we must oppose your bill.

Prison work programs are an essential part of changing prisoners' lives so that they leave prison better than they enter. Meaningful jobs teach inmates productive skills that will help them make the transition to leading productive lives in the free world, and the wages they receive allow them to pay restitution to the victims they have harmed, support their families, pay some of the costs of their incarceration and save a small amount toward their "gate money".

We advocate work programs because they are a benefit to society. Over 95 percent of the inmates who are currently incarcerated will be released back to our communities. Do we want them unskilled and angry after years of forced idleness? Or do we want them capable of contributing to society with skills they have learned during their confinement. How we treat them in prison will determine what type neighbors they will be.

Idleness is destructive, and any reform of the current system must also expand the work opportunities for inmates. We suggest that you amend your bill to adopt the thoughtful reforms proposed by the Progressive Policy Institute. If adopted those reforms would result in many more inmates working at productive jobs without unfairly competing with private industry. Without such amendments we must oppose your bill.

We appreciate the cooperation we have received from you personally as well as from your staff as we have sought middle ground on this very important issue.

Sincerely,

CHARLES W. COLSON,
*Chairman of the
Board, Prison Fel-
lowship.*

PAT NOLAN,
*President, Justice Fel-
lowship.*

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Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, yes, the enemy is China but we have no moral high ground to complain about China flooding the American market with goods made from slave labor in China if we do not reform Prison Industries because they are doing the same thing here.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, it is quite unfortunate that we have a bill

before us that pits the small business community or the business community against work opportunities in our prisons. It just should not have reached the floor this way.

It is absolutely obvious that prisoners need to have opportunities for work and rehabilitation while they are in prison. And every Member of the Congress of the United States has stated or demonstrated one way or the other that we support business, we support small business, and we have the office of SBA and a lot of other opportunities to show our support for small business. So we should not have this kind of tension. It really should be worked out.

I do not know where this bill is going, and whether or not it is going to receive the support of the Members of this House; but I know one thing, if we are to release prisoners into our community we should be releasing them with some kind of work experience. And I am sick and tired of prisoners being released with no money, no home, no rental opportunities, no health care, no anything. When they hit the street, if they do not have money for food, if they do not have money to pay rent, if they do not have a reasonable opportunity to have some time to find a job, you are going to continue to experience this recidivism that we are experiencing. And so my remarks today are a prelude to what I am going to do in an amendment.

My amendment is going to say that prisoners should be released with more money; that they should work with whatever the wages are under this system that we have; but for the last 2 years of their work, they should receive at least \$2.50 an hour to be retained in a fund so that when they are released they can go and rent a place and have food and not be in the position of being tempted to commit crimes in our communities, in our neighborhoods, because we let them out of prison without anything.

So if I had my druthers, I would remove this bill from the floor. It has no business here creating this tension between business and prison opportunities for work, but I do not have my druthers on this, and so the bill is going to come up for a vote. And I will have an amendment that will deal with the last 2 years of a prisoners' time so that they could have a little bit more money to hit the street with the opportunity for rent, to pay the rent and to buy food.

Again, I know that it is important for prisoners to have the ability to work, and I would not want to eliminate that. I would want to make sure that whatever we do there are some opportunities for prisoners to be able to do this work.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), chairman of the Subcommittee on Crime, Terrorism and Homeland Security.

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding me time.

While I support our efforts to train inmates to become productive citizens of society, I believe such effort should take great care not to threaten the job of hardworking taxpayers. This issue is especially important to the Sixth Congressional District of North Carolina, home to more than 40,000 textile and furniture workers, since two major classes of items produced by FPI are textile and furniture.

FPI's mandatory source status gives it an unfair advantage, it seems to me, over private manufacturers contending for Federal contracts. Therefore, many of my constituents are deprived of employment opportunities in order to give work to Federal inmates.

The furniture and textile industries in North Carolina are already competing with an increasing number of imports arriving in the United States from countries such as China as has been previously mentioned. From January 2001 to May of 2003, 100,000 furniture and related products jobs in the U.S. were lost. In addition, the North Carolina textile industry has suffered over 10,000 job losses in the past year. For these reasons, I am concerned about FPI's proposal to begin selling inmate furniture services in the commercial market.

It is my belief that the FPI is in need of reform before it is allowed to expand. I am a strong proponent of H.R. 1829 because it does just that, eliminates the FPI's mandatory source advantage. It also limits FPI's ability to enter the commercial market, which I believe may have an adverse effect on private companies not able to compete with low wages and cost benefits enjoyed by FPI. Further, the bill incorporates vocational and educational programs to teach inmates job hunting and professional skills and coordinates funding to help inmates transition back into society. So this bill does not turn a deaf ear to inmate training.

In my opinion, these are real and necessary reforms that will preserve FPI's goal of providing inmates with essential skills while allowing for better marketplace for competition.

Hardworking taxpayers in the Sixth District of North Carolina and other districts who are employed in the furniture and textile industries can compete with anyone in the world. They should not have to compete with their own government which is using their tax dollars to train inmates how to become textile and furniture workers.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise to voice my support for the Federal Prison Industries Competition in Contracting Act of which I am a lead sponsor with my colleagues, the gentleman from Michigan

(Mr. HOEKSTRA), the gentleman from Massachusetts (Mr. FRANK), the gentleman from Georgia (Mr. COLLINS), the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS).

We are living in difficult times, in a tough job market. The Federal Government should not be taking actions that put American working men and women out of work. But that is exactly what the Federal Prison Industries does.

Federal Prison Industries has established eight business groups including the garment industry that use Federal prisoners to manufacture goods at cut rate prices. With its predatory practices, FPI has contributed to the closure of private companies and the loss of tens of thousands of jobs throughout the Nation.

One of my constituents, Glamour Glove Company confronted FPI directly in 1997. FPI sought to simply take Glamour Glove's competitively won Defense Department contracts to make gloves for the military. If FPI had succeeded, Glamour Glove would have been out of business. And its workers, members of UNITE would have been out of work.

I led a fight to save those jobs in my district and had strong support of my colleagues in this Congress. In the forefront was my friend, the gentleman from Michigan (Mr. HOEKSTRA). We won that battle, but I recognize that FPI had to be fundamentally changed. It is examples like Glamour Glove that have brought us to where we are today.

This bill will require FPI to compete for contracts while continuing to offer rehabilitative work opportunities to Federal prisoners. Federal prisoners will be allowed to compete, but it will not allow FPI to come in, arbitrarily, and close plants down across this country. This legislation will ensure that contracts are awarded to the company that will provide the best products, delivered on time, and at the best prices.

Virtually all segments of business community led by the United States Chamber of Commerce, organized labor led by the AFL/CIO, and Federal managers represented by the Federal Managers Association enthusiastically support this bill. Passage of this legislation will not mean that inmates will sit idle in prison.

This bill provides alternative rehabilitative opportunities including work in support of nonprofit public service organizations to better prepare inmates for a successful return to society. This bill authorizes \$75 million dollars a year for vocational, education and work programs for Federal inmates. I urge my colleagues to put an end to this unfair government-sponsored monopoly.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I have enormous respect for the author of this bill and, of

course, I do for the chairman of this bill, but I must oppose this legislation. I oppose it on prison safety grounds, I oppose it on fiscal grounds, and I oppose it because I believe it will increase recidivism and crime.

FPI in my view is a critical tool in our justice system. It helps us manage prison safety at a time when everyone here knows that prison populations are exploding. It helps us increase the chances for prisoners to become law-abiding successful citizens upon their release, and it does all of this without costing the taxpayers one dime.

Now, FPI, Federal Prison Industries, has not been a perfect program. That is why it is being reformed and improved, and I agree that more work should be done. But this bill, the bill before us today would essentially destroy FPI and all of the benefits that it provides.

As a result of recent changes, FPI has already had to lay off over 1,700 inmates. H.R. 1829 will greatly exacerbate those numbers and create a volatile, dangerous situation in our prison system.

Now, as I said earlier, I oppose this bill also on fiscal grounds. According to the Congressional Budget Office, this bill will cost taxpayers nearly \$590 million over the next 5 years. On the other hand, FPI costs taxpayers not a dime. Seventy-three percent of the earnings from FPI goes to purchases from the private sector for raw materials, parts, and services. These contracts are with businesses all across the country, and nearly two-thirds of those are with small, female, minority, and disadvantaged businesses. These private contracts keep an estimated 5,000 private sector workers employed. Twenty percent of FPI's earnings are paid to staff.

According to the Congressional Budget Office, H.R. 1829, on the other hand, would cost an additional \$177 million over 5 years. That is nearly \$35.4 million a year just for the extra security that will be necessary to supervise prisoners who are no longer working due to the elimination of FPI.

Mr. Chairman, this bill will harm prison safety. It will cost us over \$100 million a year. It will cost us 5,000 private sector jobs. We should be supporting programs that will prevent recidivism. We should be supporting programs that will help secure prison and public safety. We should be supporting programs that work with small local businesses all across the country. FPI does that; H.R. 1829 does not. That is why the bill is opposed by Prison Fellowship, by the American Federation of Government Employees, and as we heard just a few moments ago, by the Fraternal Order of Police.

Mr. Chairman, these are days in which we have to be looking for ways to break the cycle of crime and violence. We know what works. The work ethic works. Teaching the work ethic, reinforcing the work ethic, that is how we maximize the chances of success for prisoners upon release. We have seen it

day in and day out. We know that it works.

I think it is extraordinarily sad that we take up legislation today that would destroy that. That would undo the one thing that we know works.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me time.

My Fifth Congressional District in Florida is home to one of the southeast's largest prison complexes, and that is the prison complex in Coleman, Florida. It is a very small rural county.

At Coleman, working for Federal Prison Industry is a heavily sought after benefit that the inmates want. If an inmate misbehaves, he cannot work for FPI and they have lost that privilege.

Inmates who work are proven to be less violent and more able to be re-integrated into society.

We have to remember that these Federal inmates have broken the laws governing our land. In turn, we house them, we feed them, we provide them with some of the best medical care which our taxpayers very often resent. When I say we, I mean the American taxpayer.

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We also offer, but not mandate, the opportunity for these inmates to gain some work skills.

The Federal Government owes it to the taxpayers to utilize Federal Prison Industries for efficient and inexpensive government production. I regularly hear from the Coleman employees and members of their families. They all feel that knowing that an employee is working for FPI is a greater safety factor.

My mama always used to say that an idle mind is the devil's workshop, especially in prison; and keeping the prisoners busy to me is a safety issue for the prison guards.

Given the current fiscal crunch that we are having and the estimates that we need to fund the ongoing war against terrorism, we should not pass a measure that will cost the taxpayers \$589 million.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. QUINN).

Mr. QUINN. Mr. Chairman, I rise today in support of H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003.

As a Member from the northeastern part of our country and a district with a large labor union constituency, I can tell my colleagues that it is not too often that the business community and the union community come together and work on an issue. Mr. Chairman, the business and labor communities have been working on this issue now for over 8 years to try to reform the program.

H.R. 1829 balances the need to rehabilitate inmates while at the same time protecting our workers and our jobs. Opponents of the bill will tell us that the intent of business and labor is to put FPI out of business. This is not the case at all, and this legislation does not attempt to do that.

I would ask my colleagues on both sides of the aisle to join me in opposing any amendments that allow FPI to expand its competitive advantage over businesses and unions by giving them unfettered access to the commercial marketplace.

Let me just close by saying, Mr. Chairman, this is a broad-based and bipartisan bill. This type of agreement shows that it is the right approach and that we should act today, not delay any longer. If the business community and the union community can work together so closely on this issue brought before us today, we should be able to do the same thing as Members of the House.

I say support 1829, support it now. Delay no longer. We should act today.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Ms. MAJETTE).

(Ms. MAJETTE asked and was given permission to revise and extend her remarks.)

Ms. MAJETTE. Mr. Chairman, I thank the gentleman for yielding me the time.

Today, I rise in support of H.R. 1829. This bill addresses two important issues, rehabilitation of prisoners and leveling the playing field for small businesses. Rehabilitation and fair competition, that is what this bill does.

For prisoners returning to society, this legislation provides more vocational and remedial education. It trains them and helps them to find jobs. I am a former State court judge, and I presided over hundreds of criminal trials. I know firsthand that people who receive education and job training are less likely to return to courtrooms and return to prisons.

Federal Prison Industries has a good track record for success, but vocational education is shown to be even more effective than FPI. Inmates who have vocational education are 33 percent less likely to return to prison after their release. They have a viable alternative to criminal activity.

This bill also levels the playing field for small businesses. Currently, FPI has a competitive advantage over small businesses. FPI is the Federal Government's mandatory source for over 200 products, and that effectively shuts out small businesses that make the same products.

Last month, Angie McClure, vice president of a Georgia metal manufacturer, testified that in Georgia alone there are more than 600 manufacturers competing with FPI. Some of these manufacturers are unable to compete because FPI is the mandatory source for those products. These Georgia man-

ufacturers represent more than 31,000 jobs.

We need to eliminate FPI's mandatory source status and require FPI to compete for Federal contracts just like every other business.

I support H.R. 1829 because it meets both goals, fair competition and rehabilitation. I urge my colleagues to support the bill as well.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the author of this bill.

Mr. HOEKSTRA. Mr. Chairman, I thank the chairman of the Committee on the Judiciary for yielding me the time.

I really want to thank my colleagues who have worked with me I think over the last 8 years, the chairman 7 years; my colleague, the gentleman from Massachusetts (Mr. FRANK), on the other side of the aisle; the gentleman from New York (Mrs. MALONEY); the gentleman from Georgia (Mr. COLLINS). It was 7 years ago that common interest brought us together, and since that time we have been able to expand this coalition to bring about real reform, bringing about real reform that the business community endorses, that the labor unions endorse and I think really moves us into the right step.

I want to just address some of the concerns that my colleague, the gentleman from Virginia (Mr. WOLF), brought up; and I think we do share the same vision, the same objective in the legislation, because it is part of a test of civilized people as to how we are in regard to the treatment of crime and criminals. That is why we have put a number of different factors into H.R. 1829.

The first thing is we do not take a meat axe to this. What we do is we say over a period of 5 years we phase out mandatory sourcing. We still allow Federal Prison Industries to compete for the business, but we put it on a level playing field for manufacturing organizations in America so that taxpayers at least have the opportunity to compete for this business. So it is a phase-out of mandatory sourcing over a period of 5 years.

We open up the opportunity, too, for nonprofits. In the State of Michigan, our prisoners, they work with organizations like Habitat for Humanity. They build the frames of homes. The National Guard delivers these frames to the building sites. The prisoners learn the trade skills. The National Guard is involved and families receive homes.

We are going to be working with the gentleman from Virginia (Mr. SCOTT) today to expand the opportunity for prisoners to work for not-for-profit organizations. So we are looking to fill that void, if there is a void.

For years, we have heard that Federal Prison Industries produces a quality product at a competitive price, at a good delivery schedule. If that is true, there will be no change in the amount

of prison work that is performed because all we do is we eliminate the mandatory sourcing. We force them to compete.

Then, finally, we have put in a significant amount of money for vocational training. We recognize that when these folks leave prison that they need skills to make them competitive and to make them employable in the workplace. The one thing we know that does not work is to have Federal Prison Industries growing by 20 to 30 percent per year and industries that are declining by 20 to 30 percent per year. That just does not work. How can we say we are preparing people for work in factories and in industries when those industries are declining? That is exactly what is happening. The two largest elements of prison work, textiles and office furniture, both industries in decline in America during the last number of years.

Support H.R. 1829. It is a balanced and a reasonable approach to this problem.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. Chairman, before the gentleman speaks, could the Chair advise us how much time we have left?

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Virginia (Mr. SCOTT) has 8 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 5½ minutes remaining.

Mr. EMANUEL. Mr. Chairman, today I rise in support of H.R. 1829.

Last weekend, my good friend and distinguished colleague from Illinois (Mr. HYDE) wrote a piece which appeared in the Chicago Tribune. In the article, he argued that the supporters of this bill would have criminals just break rocks rather than have a real job through Federal Prison Industries. I support this bill, not because I want criminals to break rocks, but because it is our job to ensure that hard-working, law-abiding citizens do have jobs.

I understand that prisoners need something to do. Idle hands will lead to trouble. The recidivism rate in this country is out of control, and the best way to attack the recidivism rate is in this legislation dealing with education and vocational training.

I support educational opportunities for prisoners. If we look at the history and we look at the record, it is the lack of education, whether it is high school or college or junior college education, that is one of the things that is most dominant and common throughout the prison population. This is what we need to prepare prisoners, not have them compete against law-abiding citizens who do work.

In fact, the gentleman from Massachusetts (Mr. FRANK), my friend and colleague, said we would outlaw this act in China. We do not support what goes on in China, that is, prison population slave wages labor. Now, this

product may be the best option, but we do not know because there is no real competition. Our job is to ensure that the taxpayers' money is being spent wisely.

I support H.R. 1829 because it will ensure that the Federal Government purchases the best product at the best price and that law-abiding citizens have the opportunity to compete for manufacturing jobs.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and congratulate him for bringing this bill to the floor, and especially to my friend, the gentleman from Michigan (Mr. HOEKSTRA), who has labored long in the vineyards to try to get the bill before us so we could debate it.

Mr. Chairman, as a cosponsor of the Federal Prison Industries Competition in Contracting Act, I rise in strong, strong support of this legislation. I could take this time perhaps to tell my colleagues about all the merits of the legislation, but the Chairman basically has done that and the author of the bill. I could also list for my colleagues a long list of groups supporting this bill, but that will be in the RECORD, too.

I would like to tell my colleagues just about the manufacturers in the State of Georgia alone that could benefit from this legislation. Manufacturers and workers have been hit hard in tough times in our economy and because of some of our trade policies. Yes, that is another fight for another day, but H.R. 1829 could help now.

Would my colleagues believe that there are 625 companies with over 30,000 employees in Georgia alone who need this bill? There are 80 of these companies in my district alone. One of these is Habersham Metal Products in Cornelia, Georgia. Ironically enough, they make prison cell doors.

In August, I toured this plant; and a few weeks ago, we were lucky enough to have Ms. Angie McClure, who is a vice president, testify before the Committee on Small Business in strong support of this bill. She told us how Habersham Metal worked on a design build project for several months in Pollock, Louisiana. This project would have meant work for the employees of Habersham Metal Products for 3 months. However, when the specification and request for pricing hit the streets, the FPI had taken all the prime doors and frames and left them with very little to do. This reduced the possibility of Habersham Metal employees working for 3 months down to 3 weeks.

This is not an isolated incident. It has happened in this company alone many other times. But beyond the money and the employment concerns, where in the world is the logic for allowing inmates to build their own prison doors? It makes no sense.

I have heard on this floor people say, well, if we leave everything just like it is, it does not affect the taxpayer. Well, I will tell my colleagues, ask the taxpayer who does not have a job and is not paying taxes anymore if it affects them because the government factory has a monopoly. I have heard people on this floor saying that, well, prisoners will not be trained, prisoners should not work. There is not a Member here who does not believe they should not be worked and should not be trained, and there is not a word in this bill that says they cannot work. In fact, there are provisions in this bill to improve training for the inmates. It is not work that we are after. It is what the work is that they do.

I ask all of my colleagues, please support this bill. This is legislation that is way overdue.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, often in institutions unwritten rules get more obedience than written rules. One of the unwritten rules that is quite generally followed around here is that when one Member begins a set of remarks by speaking highly of another Member, the first Member is about to disagree with the second Member. So let me adhere to that rule.

□ 1230

I have enormous respect for the work done by the gentleman from Virginia who is leading the opposition to this bill. He is in many ways, particularly in criminal justice, the conscience of this House. And so I feel it is particularly important to explain why we disagree, and I appreciate the comments made by the gentleman from Georgia. This is not a debate about whether or not prisoners ought to be given work to do which will be socially productive and rehabilitative. The question is how will we pay for that work. That is the issue.

The current system in effect pays for prison rehabilitation by putting hard-working, low-wage citizens at a disadvantage and exacerbates their problem. What we now have is a subsidized form of competition between the prisoners and garment workers, textile workers and furniture workers. That is why the AFL-CIO so strongly supports our bill. That is why unions, the UAW, UNITE, unions which have been in the forefront of the battle for social justice support this bill, because it is not a case of saying prisoners should not be given useful, rehabilitative work. It is an effort to change the way it is financed.

Right now a vulnerable section of our population, people who work in the textile industry, people who work in the garment industry, people who work in the furniture industry, they are the ones who have to bear the brunt of financing prison rehabilitation.

We believe through this bill, that like any other important public pur-

pose, we should fund it in a general way with everybody who will benefit participating, and that we do not single out not just a segment but an economically vulnerable segment, people who are already hurt disproportionately by trade policies, people who are already in difficulty because of a variety of other factors.

This bill includes provisions to say that the prisoners can do work, make products, but simply not compete commercially. There are plenty of these institutions in this society, Habitat for Humanity was mentioned, homeless shelters, day-care centers, there are plenty of places that have a need for clothing and furniture, draperies, they can be given this.

What is at issue is not whether or not prisoners do work, but what is the socially fair and responsible way to pay for it. It is true there will be a difference. If we go the way those of us who support this bill want, Prison Industries will not be doing much marketing, but I would hope marketing is not one of the things that we are not getting the prisoners into right away. They do the physical work, they learn the vocational skills. The marketing is not something that we ought to be introducing them to. This bill is a way to continue rehabilitative work for the prisoners in a socially fair manner.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of this legislation, and I rise in support of it because I think it is long overdue that we address this problem. Approximately 8 years ago, a young man came to my office in Jonesboro, Georgia, to tell me about a situation that his small business was in. He was being denied a contract with the Air Force for building missile containers which he had been doing for several years. He fought it in court and won. He spent all of his cash doing so, only to see FPI come back again, this time successfully, leading to the demise of his business and the loss of about 150 jobs, people working to provide for their families, to pay their taxes, and they are playing by the rules.

They had an unfair competition, a position of having a mandatory source that this small business did not have and could not overcome. It has been said that China is the enemy, not these inmates. I do not consider either an enemy. I consider the inmates having an unfair position toward competition with the mandatory source which has been long overdue to be changed. I do not see China as an enemy, I see them as competition and meeting competition with us with some advantages. There are a couple of things where they do not play by the rules as far as trade. They do not value their currency as

they should, and they have tax provisions of tax laws which are much different from ours which make our workforce noncompetitive with their workforce. Here we are talking about law-abiding citizens competing with inmates. It is time to pass this legislation, do a 5-year phaseout of the program and get away from the mandatory source and the competition of contracting and bidding.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I have listened intently to this debate, and it is clear to me that there are a lot of people here who do not know much about what goes on in prison, and do not know much about what happens to people when they get out of prison. Most of the individuals who are incarcerated have no skills. As a matter of fact, most of them do not have a high school diploma. They are dropouts. Many of them have personal emotional problems and difficulties.

My mother always told us that an idle mind was a devil's workshop. I can tell Members if we do not provide an opportunity for individuals to learn and develop a skill, to come out so they are able to go in the marketplace and get a job, half of them will end up right back in the same prison. We will be paying for them and paying for them and taking care of them for the rest of their lives. If that is not utilization of tax money, then I do not know what is.

I agree with my esteemed colleague from Illinois (Mr. HYDE) when he wrote the op-ed opinion. It may not be the intent to have them breaking rocks, but the results will be that there will be nothing for them to do except break rocks. I have heard people talk about the training, all of the things that they are going to get. I do not know which prisoners these are, and I do not know which prisons these individuals come from. They sure do not come from the ones that I meet and know and see.

This legislation is not good even for small businesses. It is not good for the businesses that we intend to protect because any money that they can make they are going to have to plow it right back into taking care of the inmates who now cannot take care of themselves. I would urge that we vote this legislation down. It is not good for America.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, if this bill passes, we will very seriously jeopardize the viability of the Prison Industry programs that will reduce the number of prison jobs. It will actually reduce the number of business opportunities because right now we are only talking about one-fourth of 1 percent of the Federal procurement. In addition to all of the private procurement going on, obviously eliminating the prison work and one-fourth of 1 percent of just the Fed-

eral part of the entire market share will make no difference to anyone. If they cannot get a contract now, they certainly will not be able to get a contract if this bill passes. We do know, however, that crime will go up if this bill passes. It does not cost the taxpayer any money. It works. I would hope that we will defeat the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, listening to the opponents of this bill, one would be led to believe if this bill passes, prisoners are not going to have anything to do and there will be nothing but prison riots. And when they get out of prison, they will go back to a life of crime because they do not have the skills. That is not true.

This bill authorizes \$75 million a year for rehabilitation and training, vocational training so when they get out of the prisons, they will be equipped to compete in the job market.

The gentleman from Massachusetts (Mr. FRANK) said it correctly, the question is here who pays for the rehabilitation of prisoners, and who pays for giving them vocational training. Vote this bill down, and it is on the back of the small business owners and the people who work and pay taxes to try to compete in Federal Government procurement. Pass this bill, and the taxpayers will pay for it, which they ought to.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to discuss H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003, and to discuss a section I added, section 16, which should be left intact. In a markup of the full Committee on the Judiciary in July of this year, my colleagues on that Committee voted to accept two of my amendments that speak to the issues of the bill's elimination of the "mandatory source preference" and inmate "good time" for the nature of offense and good behavior that have been incorporated in the bill as sections 15 and 16, respectively. Prison reform is an important matter that deserves serious attention by the House before it considers passing this important legislation.

Section 16 reads:

It is the sense of Congress that it is important to study the concept of implementing a "good time" release program for non-violent criminals in the Federal prison system.

This provision is extremely important to the rebuilding and strengthening of our society with contributors to the economy. Furthermore, it helps to alleviate our ever-increasing problem of prison overcrowding. In addition, section 16 rewards those inmates who have behaved well during their incarceration period, thereby giving proof that the criminal justice system does work on occasion.

It is very important that we respect the lives of those who are incarcerated and allow those who do not belong there to exit. Ex-inmates find it hard to re-adjust to the free community as it is. If they have spent any length of time behind bars, they have come to see the rules of the free world etiquette as upside-down. They have learned in prison, for example, that a smile when greeting someone means you

are looking for trouble. Being nice or kind to anyone is a sign of weakness, and ex-inmates typically overreact to anything that threatens to put them down or make them feel hopeless. The most common reason for not being able to adjust back into society is an inability to handle all the strange, angry emotions and hassles that come up in almost every social or interpersonal encounter with people in the free community.

The rights of inmates are restricted, the theory being that they do not have the required honesty and proper values to participate in some of the things that free people enjoy. These restrictions vary by jurisdiction, and some places are slowly lifting them but nevertheless remain very behind. I mention this situation to show how those inmates who have fully rehabilitated only get harmed by prolonged time in prison. This provision respects what the criminal justice system was built to do. The criminal justice system was not created to simply house the undesirables of the world or to keep them away from civilization. It was created to punish, rehabilitate, and to reinstate into active society.

Over 2 million offenders are incarcerated in the Nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come. A great number of these inmates have fully rehabilitated and have earned the right to exit on "good time."

According to a 1995 Federal Bureau of Prisons study of more than 7,000 inmates, 72 percent of those who participated in a prison work, vocational training or apprenticeship program, or a combination of these programs, had found and kept jobs by the end of their first year out of prison. Sixty-three percent of those who had not participated in these programs were able to find and keep jobs in the same time period. Allowing these individuals to exit on "good time" only gives our economy a much-needed wave of fresh contributors.

Work programs are an important component of rehabilitation. Most prisoners have poor literacy skills and few job skills, and therefore a history of unemployment and crime. Programs that reduce illiteracy, allow prisoners to earn a high school diploma, and provide vocational training and work skills are beneficial to a prisoner's rehabilitation and have been shown to be very effective in decreasing recidivism. A program that provides real work experience can teach useful job skills and good work habits which will be vital to the ex-offender's reintegration into the community. With the benefits conferred by section 16 of this bill, the prison system will actually serve as an institution in which we can have pride.

FPI runs effective and valuable rehabilitative programs. These programs help prisoners gain important life skills, thereby decreasing recidivism, and gives prisoners income which they can use to pay restitution to victims, fines to the government and money to their families. Eliminating the mandatory sourcing program, as mandated by H.R. 1829, would severely limit, if not completely destroy, FPI and these programs. Currently, 22,560 prisoners are employed in the FPI. This accounts for 18 percent of the total Bureau of Prison inmate population.

The Bureau of Prisons of the U.S. Department of Justice administers the Federal prison

system. Clearly, the Bureau is expanding the capacity of the Federal system in anticipation of accommodating an inmate population exceeding 178,000 by the year 2006. Clearly, the overcrowding of prisons is a serious matter.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to the FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic. This is certainly important.

On the other hand, there are some groups that represent working Americans that suggest that job opportunities, particularly jobs needed by low-income families, are lost because FPI receives Federal contracts. However, current law prohibits FPI from dominating the Federal market, and there are currently congressional mandates placed on FPI to "avoid capturing more than a reasonable share of the market" among Federal agencies, departments, and institutions for any specific product; determining the appropriate share of the Federal market remains contentious. Nevertheless, we must endeavor to take into account the concerns by working Americans across the Nation so that we can pass a bill that simultaneously protects jobs and keeps inmates productive.

The most important positive skill taught by FPI is a work ethic. The FPI has had a very positive impact on inmates. A major longitudinal research study conducted by the Bureau of Prisons concluded that inmates who worked in FPI while in custody were substantially more likely upon release to be employed and earning higher wages and were 24 percent less likely to be engaged in criminal behavior. Reductions in recidivism can have enormous impact on public safety, criminal justice costs, reimbursement to victims and strengthened family ties. Hand in hand with this reduction in recidivism is the benefit to be seen from giving inmates of non-violent crimes early exit from prison based on "good time." The success stories that we see in our respective States all show that such early release does cut down on recidivism and helps the economy.

Instead of cutting back on prison industry, we must pass legislation to provide greater opportunities for prison employment and legislation that will improve the safety of those who must live and work in the prisons.

Mr. DINGELL. Mr. Chairman, I rise in strong support of H.R. 1829, the Federal Prison Industries Act. I am a proud cosponsor of this sensible legislation, and believe that private businesses from my State and others can now compete for government contracts that they were barred from in the past. The exemption of Federal Prison Industries (FPI), Inc. has allowed for higher prices, and fewer choices for Federal agencies. With enactment of this bill, Federal agencies will now be able to choose the products and services offered by FPI rather than the other way around. It is a good bill, a sensible bill that helps businesses and workers in my district.

In these tough economic times, when well paying manufacturing jobs are leaving the great State of Michigan, this is an opportunity to help unemployed workers get back to work. H.R. 1829 opens to competition Federal contracting opportunities reserved for FPI. Private sector firms, and their non-inmate workers,

will, for the first time, be able to bid on these Federal business opportunities.

Mr. Chairman, this is a bipartisan bill that has the overwhelming support of business and many labor unions. I am proud to support this bill, and call on my fellow Members to do the same.

Mr. PETRI. Mr. Chairman, I rise today to voice my opposition to H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003.

In my home State of Wisconsin there are many small businesses that provide parts for FPI products. These are vital businesses that will be hurt if the contracting procedures of FPI are changed. Additional job losses would be devastating to an area that has already lost many manufacturing jobs.

The supporters of this bill say that small businesses would be helped by its passage. That simply isn't true for the Sixth District of Wisconsin, and we will find that it won't be true in many other communities.

There are currently over 145,000 federally incarcerated inmates. It is our responsibility to provide meaningful work and job-training opportunities for these inmates while balancing the needs of the business communities. I have visited the Oxford Prison in my district, one of the institutions where FPI contracts are filled. The inmates there put together a good product, learn a skill, and importantly, must take responsibility and initiative, all of which will serve them well upon their release. H.R. 1829 would tie the hands of the Bureau of Prisons, preventing them carrying out these goals. Supporters of this bill seem to think that this isn't true.

Passage of this bill would be detrimental to businesses throughout the Nation, not to mention the thousands of inmates who benefit from the opportunities that FPI provides.

I urge my colleagues to oppose H.R. 1829.

Ms. MAJETTE. Mr. Chairman, I rise in support of H.R. 1829 Federal Prison Industries Competition in Contracting Act of 2003. Rehabilitation of prisoners is vitally important to society. However, when a government corporation becomes a profit center that is removing work from small businesses, the process needs to be reviewed and changed. That is what this legislature does.

Today, FPI is the Federal Government's mandatory source for almost 200 products. That is almost 200 items that small businesses cannot make for the Federal Government. FPI has a distinct advantage over small businesses. FPI is able to pay much lower wages—\$.25–\$1.25 per hour, which is four to five dollars less than our current minimum wage. FPI is exempt from the often overwhelming requirements of OSHA compliance. FPI also has the advantage of borrowing funds from the U.S. Treasury to purchase equipment, pay wages and invest in expansion of facilities. Small businesses do not have that advantage—they have to go to banks to borrow money.

For those prisoners who expect to return to society, rehabilitation is important and this legislation makes sure that vocational education for inmates is increased, as well as remedial education. It increases inmate access to programs that teach job-seeking skills and also gives them access to pre-release job fairs.

I am a former State Court judge and I have presided over hundreds of criminal trials. I know that we, as a society, have failed some

of the individuals who appeared before me and my judicial colleagues. Many criminal defendants are people for whom the educational system has failed. We have failed to provide early intervention and Head Start for many of these individuals. We have failed to help them graduate from high school. We have failed to help these individuals develop the job skills necessary to be productive members of society and to stay on the right side of the law. If we had just made the proper investment in education and job training at the beginning, some of these individuals would not be in courtrooms and prisons across the country now.

Now that these individuals are in prison, it is vitally important to give them the training they need to be successful once they are released from prison, we must do our best to ensure they do not return.

Federal Prison Industries has certainly given skills and purpose to inmates and has a good track record for success. About 24 percent of prisoners who take part in FPI do not return to prison.

However, as I know from my years as a lawyer and judge, there is no one program that works for every individual. In fact, vocational education is shown to be even more effective than FPI. Those inmates who have vocational education are 33 percent less likely to return to prison after release.

This legislation increases funds available for vocational education for inmates, including remedial education. But we cannot stop there—we need to appropriate those funds as well. Saying we don't have the money next year is no excuse, because as a society we will pay.

We can decrease the likelihood that those individuals will return to prison. This is not a handout to prisoners, this is an investment in the future of our society. Education, job skills and training are investments that we should have made long before these individuals ended up on the wrong side of the law. The cost of this bill is a small price to pay for returning people to society with the skills they need to be productive and increasing the odds of their success.

But that success cannot come at the expense of law abiding citizens who are running small businesses. Small businesses are really the backbone of our economy. They give us three of every four jobs created. We must not take additional opportunities away from our entrepreneurs.

Last month a metal products manufacturer from Georgia testified that in Georgia alone there are more than 600 manufacturers that compete with FPI, or who are unable to compete for Federal contracts because FPI has become the mandatory source for those products. These companies represent more than 31,000 jobs.

We need to eliminate FPI's "mandatory source" status and require FPI to compete for Federal contracts just like every other business. Our small businesses need a level playing field on which to compete for Federal contracts while we continue to rehabilitate inmates. I support H.R. 1829 because it meets both goals—fair competition and rehabilitation. I urge my colleagues to do the same.

Mrs. BLACKBURN. Mr. Chairman, I rise in support of H.R. 1829, the Federal Prison Industries Competition in Contracting Act. This legislation is needed to help reform the Federal Prison Industries because right now FPI

unfairly competes with small businesses. FPI is a government-owned corporation that employs over 20,000 inmates. FPI has been producing approximately 150 types of goods and services that government agencies are forced to accept without competition. FPI was created in 1934 in order to manage, train, and rehabilitate inmates; unfortunately, FPI does not fulfill its mission and many inmates are unprepared to enter the workforce when they are released from prison.

In fact, there has been no evidence any inmates have gained meaningful employment upon release when assembly is the primary skill required. FPI pays inmates a paltry \$.23 to \$1.15 per hour, does not provide employee benefits, and is exempt from excise taxes. Small businesses absolutely cannot compete with this unfair system. Furniture manufacturers have had to lay off 30,000 employees nationwide, while 40 percent of FPI sales in FY 99 came at the expense of the office furniture industry. Law-abiding citizens are looking for work; nevertheless the FPI is shielded from competition, overcharges for its products and services, and is less efficient than many small businesses. The bill we are discussing today changes that by allowing small businesses to competitively bid on services provided by FPI to the government.

We update FPI in order to improve job-hunting skills and better address rehabilitation for inmates. In addition, reform will provide opportunities for law-abiding citizens and small businesses. This legislation updates and improves this depression-era agency by properly training inmates with hands-on vocation combined with remedial education.

I urge my colleagues to support this fair legislation that will help level the playing field between this government agency and our small businesses.

Mr. ROGERS of Michigan. Mr. Chairman, I rise today to offer my strong support for the Federal Prison Industries Competition in Contracting Act. But before I begin I would be remiss if I did not thank my good friend and colleague Representative PETE HOEKSTRA for introducing and working so hard to pass this important measure.

Mr. Chairman, H.R. 1829 levels the playing field and lets private sector businesses compete for Federal Government contracts. Specifically it eliminates the mandatory contracting requirement that Federal agencies are subject to when it comes to products made by the Federal Prison Industries (FPI).

In a misguided policy, Federal agencies are currently required to buy only from FPI. This requirement has transformed FPI from a small program focused on rehabilitation into a virtual monopoly power in the Federal marketplace. Providing over 300 products and services and generating \$678 million in sales last year.

We in Michigan have a keen appreciation of the impact of FPI because nearly 35 percent of these sales represent office furniture products that are competing directly with the many furniture makers in my home State of Michigan. In fact, approximately 5,000 inmates in 17 factories within the Federal Prison System are building furniture today. Without this bill, FPI will be able to continue its mission creep into new marketplaces directly competing with struggling private manufacturers.

Mr. Chairman, the private marketplace has consistently shown that they can provide higher quality products quicker and cheaper than

the FPI. I urge my colleagues to support this important bill and support American manufacturers.

Mr. KNOLLENBERG. Mr. Chairman, I rise in strong support of H.R. 1829. Let me congratulate my colleague from Michigan for his hard work in bringing this bill to the floor of the House today.

This bill is about fundamental fairness. We are not voting today to eliminate the Federal Prison Industries. Rather, we seek to open up the federal procurement process to manufacturers who are capable of supplying quality products at reasonable prices, but who are by law prevented from doing so.

We have heard a great deal in recent months about the state of manufacturing in this country, and, it's true, our manufacturers are under severe pressure. As legislators, we should be looking for ways to open up markets for our small businessmen and women to sell their products, so that factories stay open and jobs stay here.

The fact of the matter is that the federal government is a market unto itself. But for the more than 300 products that the FPI is the only entity allowed to sell to the federal government, it is a market that is closed to our blue collar workers. This is simply not right.

It's time to end this unfair monopoly. Let's level the playing field for government contracts for our manufacturers here at home. We'll save the government money, save some jobs, and restore some sanity to this part of the federal procurement process.

The FPI shouldn't be afraid of a little competition. Our manufacturers are not.

I encourage all my colleagues to support H.R. 1829.

The CHAIRMAN pro tempore (Mr. SIMPSON). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Federal Prison Industries Competition in Contracting Act of 2003".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Governmentwide procurement policy relating to purchases from Federal Prison Industries.

Sec. 3. Public participation regarding expansion proposals by Federal Prison Industries.

Sec. 4. Transitional mandatory source authority.

Sec. 5. Authority to perform as a Federal subcontractor.

Sec. 6. Inmate wages and deductions.

Sec. 7. Clarifying amendment relating to services.

Sec. 8. Conforming amendment.

Sec. 9. Rules of construction relating to chapter 307.

Sec. 10. Providing additional rehabilitative opportunities for inmates.

Sec. 11. Restructuring the Board of Directors.

Sec. 12. Providing additional management flexibility to Federal Prison Industries operations.

Sec. 13. Transitional personnel management authority.

Sec. 14. Federal Prison Industries report to Congress.

Sec. 15. Independent study to determine the effects of eliminating the Federal Prison Industries mandatory source authority.

Sec. 16. Sense of Congress.

Sec. 17. Definitions.

Sec. 18. Implementing regulations and procedures.

Sec. 19. Rule of construction.

Sec. 20. Effective date and applicability.

Sec. 21. Clerical amendments.

The CHAIRMAN pro tempore. Are there any amendments to section 1?

AMENDMENT NO. 8 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 8 in the nature of a substitute offered by Mr. GREEN of Wisconsin:

Strike all after the enacting clause and insert the following:

SECTION 1. GENERAL ACCOUNTING OFFICE STUDY ON FEDERAL PRISON INDUSTRIES.

(a) *REQUIREMENT.*—The Comptroller General shall conduct a study of the effects of eliminating the mandatory source requirements for Federal Prison Industries (as specified in section 4124 of title 18, United States Code). The study shall consider the effects on prison operations, public safety, inmate employment, public and private sector employment, and any other matters the Comptroller General considers relevant.

(b) *REPORT.*—Not later than April 30, 2004, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study required by subsection (a).

Mr. GREEN of Wisconsin. Mr. Chairman, a few moments ago my friend, the author of this bill, claimed that this bill would not hurt FPI. He said it would help Federal Prison Industries. It would strengthen it.

Well, the truth of the matter is although he may believe that, he cannot say that for certain. We simply do not know. The amendment that I offer today would help us to find out. This simple amendment is grounded in common sense. It simply permits the GAO to study the effects of eliminating mandatory source requirements for Federal Prison Industries. The proscribed study will consider the effects on prison operations, public safety, inmate employment, and public and private sector employment.

A similar study is already underway at the GAO, and we have been told that this study will be ready by April 2004,

in 6 months. In only 6 months, we would have all of the information we need, impartial evidence, the evidence that we need to know what the effect this legislation would have on our public safety, on our prison safety, on recidivism, on prison operations, and local business. It seems to me 6 months is not too long to wait. This study will provide us with the data to determine the actual effects of eliminating the FPI mandatory source authority as this bill would do. The study is critical in my view to the proper development of any comprehensive legislative solution to the real problems that exist with FPI.

Currently, FPI has a positive impact upon a number of important concerns in the justice system, concerns like prison security and correctional worker safety and victim restitution, dependent support, recidivism, hundreds of small and minority-owned businesses, not to mention the thousands of workers that partner with FPI. And last, but not least, public safety. The GAO report will assess the impact of the bill on these important areas.

I believe the consideration of this legislation is premature without this analysis and review. There could be many unforeseen and unmeasured impacts as a result of this bill. The problem is no one knows for sure.

It is this type of uncertainty that has caused Chuck Colson's Prison Fellowship to oppose this legislation.

My amendment asks for the study to be forwarded to the House and Senate Judiciary Committees for review. Once we have this information, then we can act in ways that will truly reform and improve Prison Industries. There would be more than enough time in this session to take action, action that would strengthen FPI, action that would take care of abuses in FPI.

Mr. Chairman, we should act on the basis of facts. We should wait a short 6 months before proceeding with legislation that could harm so many people and do so very much damage. I ask Members to vote yes for this amendment and vote yes for getting the real facts.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us be clear about this. This is an amendment in the nature of a substitute. If it is adopted, there will be no more amendments in order and the bill will come up for a vote on final passage right away. All of the work that has been done relative to reforming Prison Industries will be tossed in the waste basket, and we will get another study and the Committee on the Judiciary is going to have to start over from scratch in terms of putting together legislation to reform Federal Prison Industries.

The Committee on the Judiciary has held hearings on the problems relating to Prison Industries. We have had a markup on this bill where all views were considered. In the last Congress

we did the same. To say that all of this work should be tossed in the waste basket and we have to start over from scratch is nothing but a means of saying let us keep the present system as it is.

□ 1245

It is a stalling technique, and it really should not be seriously considered in the House.

Let us look at what is in the 48 pages of H.R. 1829. It makes reform of the government-wide procurement policy with respect to purchases from FPI. It has public participation regarding expansion proposals by FPI. It has a transitional mandatory source authority. It gives FPI the authority to perform as a Federal subcontractor. It deals with inmate wages and deductions. It has additional rehabilitative opportunities for inmates, and provides an authorization for it. It restructures the board of directors of FPI, which I think is vitally necessary because it is the board that determines what Federal Government agencies have to buy and what goods they have to buy. It provides additional management flexibility for FPI. It requires a report by FPI to Congress. It has an independent study to determine the effects of eliminating the Federal Prison Industries' mandatory source authority.

All that is completely obliterated by the amendment that my colleague from Wisconsin has offered. He can be against the bill. If he is against the bill, he ought to vote against it. But to stop FPI reform in its tracks and force everybody to go back to square one is not warranted given all of the work that has been put into this. I would urge that this amendment be overwhelmingly rejected.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a couple of comments on remarks made earlier by the gentleman from Massachusetts. The unions do not speak with one voice on this issue. We have received correspondence from the AFL-CIO locals that represent the correctional officers in the prisons who are very much against this bill. The prisoners do not have any lobbyists on Capitol Hill, and perhaps for purposes of this debate I can appoint myself as their lobbyist because I do have a perspective on the prison and prisoners and what their future and what their present could be.

One of the most memorable events in my life was attending a graduation ceremony of prisoners in the Cook County jail where these young men marched to the tune of "The Impossible Dream" in their secondhand graduation robes where they were getting an eighth grade diploma. Some of them had been taught how to read, something that their education had missed. The room was filled with employers who were going to see that these people, who tried to put their time in jail to use, were going to have some hope instead of despair when they left the prison.

Yes, this is a Federal subsidy of prison industries, but we rush to subsidize the farmer, or we rush to subsidize research at universities and education. Subsidies are not alien to this body. But the social good that comes from prison industries, it seems to me, outweighs any distaste for a Federal subsidy.

One of the great unmet needs of our country is prison reform. Currently there are 145,000 federally incarcerated prisoners. I ask whether or not we have a duty towards them. I think one of the purposes of imprisonment is rehabilitation and one very effective way to rehabilitate, especially someone who has never had an education, as many of these have not, is to provide work opportunities and training. This is a government program that works and that does not cost a dime.

Since 1934, thousands of prisoners have changed their lives, have been better when they left the prison than when they came in. What is the result of a functional Federal prisoners program? Restitution to the victims, support their families, pay some of the costs of incarceration, and some gate money for when they leave. These are all highly useful social consequences and ought to be considered. Work is constructive. Idleness is destructive. These programs provide incentives for good behavior.

To work in the Federal Prison Industries, you need a general education diploma or be working towards it. That is important. The other is a record of good behavior. Close them down, curtail them, limit them and you only ask for trouble in prison. Small business is supported by FPI because over \$502 million worth of raw materials and other goods were purchased by FPI from private business. Sixty-two percent was from small business. Less work and more idleness combined with inmate overcrowding and staff shortages is a formula for disaster. We should be building, not tearing down. I think we encourage hope, we encourage opportunity, not despair, by strengthening and reinforcing Federal Prison Industries, not weakening them, as this bill unintentionally will do.

I hope this bill is not supported and we go ahead and get the report that the gentleman from Wisconsin (Mr. GREEN) has asked for so we are not legislating in the dark.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak against the amendment. I am always a little puzzled when we get amendments that would substitute a study for the bill. It seems to me it would ease the strain on the GAO if we just killed the bill. Since the purpose of this study is to stop the bill from going forward, why drag the poor GAO into it? Why do we not let them go about their business and not have them do a study when the only purpose of the study is to kill the bill? I say that because I do not remember

any call for a GAO study before we came forward with this bill.

On the merits, I want to express my disagreement with the former chairman of this committee. I appreciate very much his concern for prison reform, and there are a number of things I think we ought to be doing to reform the prisons. For one thing, we ought to be dealing with overcrowding by not locking up as many wholly nonviolent prisoners as we do for things that in some cases ought not to be offenses. But I have to disagree with him when he says this does not cost anything. It extracts a cost, and it extracts it in an unfair way. Obviously, somebody has to pay for this. It is now paid for not by the tax system in general but by those people who work in a couple of industries, industries that are already under economic attack. This takes the cost and takes it out of the hides of workers in the garment and textile industries. That is why UNITE!, the union of garment and textile workers, is so strongly for this bill. It takes it away from small businesspeople who would be getting the work otherwise.

I want to say particularly to many of my friends on the liberal side who have a concern for the welfare of prisoners not based on any kind of view that the prisoners are such wonderful people who happened to fall into prison by accident, but on the perfectly sensible notion that most prisoners will someday be out of prison and back in society and it is in society's self-interest to help them become the kind of people who will not do bad things when they come out.

But here is what you have to look at this Federal Prison Industries system as. It is a way for the prison system of the United States Government to escape public judgments and public supervision. It is self-financing. Why should it be? What other aspects of the prison system do we want to exempt from the appropriations process, do we want to exempt from Congress being in control? What this does is to say to the prisons, the Bureau of Prisons in our government, you get this source of income over which we have no control, and I must say I think we have a problem with not just prison overcrowding but what is the cause of prison overcrowding. In my view, too many people are in prison who should not be there. People who are violent towards other people or people who steal from other people ought to be in prison. But we have got people who are there for non-violent drug possession offenses and others whom I think should not be in prison.

I do not understand why some of my liberal friends think we ought to be subsidizing prison expansion. That is what you are doing here. When you leave this in place, Federal Prison Industries, as this self-financing entity, you are giving the people in the Bureau of Prisons a source of income so that they can do something that everybody agrees is important. No one is for hav-

ing the prisoners be without this kind of rehabilitative work. The question is, how do you finance it? I am not for allowing that to be self-financed in a way that deprives us of the right as elected officials to make choices about what the resources ought to be. That is particularly the case because, as I said, it is not cost-free.

We are losing jobs in the garment and textile area. Obviously when we subsidize prisoners to produce jeans, to produce clothing, to produce draperies, jobs are lost by people in the private sector who would be doing that. It is simply inappropriate to say to hard-working, low-wage people, you know what, you are going to lose your job because there are prisoners we want to rehabilitate. I want to rehabilitate the prisoners, but not by taking jobs away from people who have stayed out of prison. On the whole, they are better at what they are doing. That is the nub of this.

We have a very large budget. I think that the gentleman from Illinois is right about what we ought to be doing. The question is not what we should be doing with regard to prisoners but how do you pay for it, how do you finance it. Do you do it by taking work away from people in the private sector? They are not taking away high-level jobs. They are not taking away those jobs where America is expanding. They are not doing things that take away from the strengths in the American economy. They exacerbate the problem we already have in industries that are already under pressure, and that is wholly inappropriate.

I believe that there are in this society day care centers, homeless shelters, and other institutions with a great need for these products. Let us in an intelligent and humane way have the prisoners produce for that sector and pay for it in a legitimate way, not by taking it out of the hides of the weakest and most vulnerable people in the private sector.

Mr. STRICKLAND. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Green amendment.

Mr. Chairman, I agree with nearly everything my friend from Massachusetts has said, but I rise today in support of the Green amendment because I think that would give Congress important information about the potential effects of H.R. 1829 by requiring the GAO to submit to this Congress a study of the effects of eliminating Federal Prison Industries' mandatory source requirements. This amendment would require that this study be completed within a compressed period of time, by April 2004.

Mr. Chairman, I may be the only Member of this House who has actually worked in a prison, in a maximum security prison, as a matter of fact. Based on my experience, I believe there are good arguments both in support of and in opposition to H.R. 1829, and I feel conflicted today. I am inclined to

support the underlying bill because I do want to put FPI on a more level playing field with other industries that employ Americans. I am very sympathetic with the concerns of correctional officers, however, who oppose the bill because FPI has been proven a successful tool in creating safe prison environments for both staff persons, correctional officers, and inmates. I am sympathetic with those who believe that FPI provides essential work experience and rehabilitation for inmates who will eventually use these skills when they are released from prison.

I strongly believe that the Green amendment gives us an opportunity to craft a thoughtful, successful public policy for all involved. The Green amendment would simply give Congress more information. The amendment gives the GAO a compressed time frame to study the effects of the bill on prisons, on public safety, inmates, public and private sector employment. I know that I have a lot of questions about the effects this bill will have, and it seems to me that we should at least have a chance to have all of our questions answered before we make this decision. This program has been around nearly 70 years.

In closing, I want to point out that this is not an issue that we should take lightly. Its effects have the potential to reach the core of our communities. Yes, correctional officers and inmates, small business owners and American workers care about this bill for very obvious reasons. But we should not forget that all those who are worried about criminal recidivism and the safety of our communities also care about this bill. About 98 percent of prisoners currently serving time will eventually return to society, and H.R. 1829 will potentially have a dramatic effect on our prisons' ability to ensure that those prisoners are ready to make the transition. I think we should do this right. I would hope we would pass this amendment so that when we do make the final decision, we can do it being better-informed Representatives and consequently arrive at a more justifiable public policy.

Mrs. MILLER of Michigan. Mr. Chairman, I move to strike the requisite number of words. I rise today to support H.R. 1829.

□ 1300

I think most Americans would be surprised, and I dare say appalled, to know that the Federal Government has been using their tax dollars to engage in business which literally takes jobs away from hardworking men and women, away from law-abiding citizens who obey the laws of our Nation, who pay their taxes, try to raise their families, and the Federal Government takes their jobs away to give those jobs to convicted felons. Yes, that is the brutal reality of this. The Federal Government taking away jobs from taxpayers and giving those jobs to prisoners who are housed and fed by those same taxpayers.

It sounds too ridiculous to be true, but believe it. Because some think we need to put prisoners' rights ahead of the rights of tax-paying American citizens, and they say that these poor prisoners are doing hard time and they need to be taught a skill. Let me say that hard time is a time that one is unemployed while they helplessly watch goods that they once proudly made now being made by prisoners who can produce the same product at a lower price because their overhead is being paid for by the Federal Government.

And some would say what is the harm? Why not keep prisoners busy? That is an important thing for us to do, who cares? Well, go to west Michigan and talk to the thousands of unemployed workers who have lost their jobs because their own government has conspired against them and ask them if they mind. A once vital industry in Michigan has been decimated, the furniture industry. Not because the workers did not have a high degree of productivity, not because the quality of their products was inferior, not because their company wanted to ship those jobs to China or to Mexico. It has been devastated because the Federal Government has totally forgotten what the purpose of government is and, in fact, has actually, in the very height of arrogance, declared an unfair trade war against its own citizens.

These companies are not even allowed to competitively compete for those contracts. Rather, they are given to criminals because of some misguided notion of rehabilitation.

I am not a corrections expert. I admit that. But I do know that I could think of plenty of other rehabilitation outlets rather than assisting felons from, one more time, taking advantage of law-abiding citizens.

I urge my colleagues to do the right thing, to do the decent thing, to change a law that is un-American, and vote for H.R. 1829.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise in opposition to the gentleman from Wisconsin's (Mr. GREEN) amendment and in support of the underlying bill, and it may come as a surprise to some people because I cannot think of a more difficult position to be in than to be opposing my friend from Virginia. My friend from Virginia and I have been debating this issue about what the appropriate role of the Federal Prison Industries should be for a number of years now, which brings me to the first point I wanted to make. When I was in the State legislature, the way they would kill a bill would be to send it to a study commission, and they would study that bill to death until it went away, and that is really what the purpose of this amendment is that the gentleman from Wisconsin (Mr. GREEN) has offered. He wants to send this back for further study as if we have not been studying this for a long, long time. That is the first point I want to make.

The second point I want to make is if they find an issue where the gentleman from Virginia (Mr. SCOTT) is on one side and the gentleman from North Carolina (Mr. WATT) is on the opposite side, one can almost be guaranteed that that is a very difficult issue and that it is not an issue of the good guys against the bad guys. This is not a good guy/bad guy issue. It is an issue of how we try to define the appropriate role that the Federal Prison Industries ought to be playing in the overall context of what we are doing here. Federal Prison Industries serves a very important role, and I am not adverse to the Federal Prison Industries, but it has to have some balances to it, and it should not be used solely as a baby-sitting or a prisoner-sitting mechanism. It ought to be used for its original purpose, which was to train people and get them prepared for reentry into society and prepared to accept jobs when they come out of the prison system. And I think the system is out of balance now because we have set up a system where we basically guarantee contracts to the Prison Industries program rather than putting them in a position where they are obligated to compete, and they are going to have a competitive advantage just in terms of the lower wages that they are paying in the system. But we cannot give such an advantage to the Prison Industries that we start to disadvantage and be unfair to businesses that are outside the prison system because ultimately if we do that, we will do damage to private businesses. They will then lay off or terminate people who are employed by them, and that will run the risk of cycling them into a life of crime because they will have to depend on that as a means of survival.

So this is a very delicate and difficult issue, and the Committee on the Judiciary has been working the issue, debating the issue, trying to find the right balance, and I think we have found a reasonable balance on this issue. That is why we see Democrats and Republicans on both sides of this issue, liberals and conservatives on both sides of this issue. It is not a philosophical issue. It is not a bad guy versus good guy. It is what is the appropriate balance? And I think this bill strikes an appropriate balance, and I would encourage my colleagues to defeat the amendment, which would study it to death forever, and to support the bill so that we can get on with making the reforms that are needed.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that what we are debating is corrections policy. The United States of America, our country, has become the most imprisoned Nation on the face of the earth. Right now, we have more than 2 million people in jails and prisons. We have more than 630,000 people who return home to neighborhoods and communities each and every year. Some communities are impacted a great

deal. Other communities are impacted not as much.

If one lives in inner city America where there is the greatest amount of impact, there are some neighborhoods where they will go into and find that almost a third of the men have some kind of prison record, have some kind of association with the criminal justice system. That sounds theoretical to people who do not experience it, but if one lives in one of those neighborhoods, then they have a large number of individuals who cannot get a job, who cannot be employed.

For example, in my State of Illinois, there are 57 job titles by license that a person coming out of prison with a felony cannot hold. As a matter of fact, they cannot be a barber. They cannot cut hair without a waiver. They cannot be a beautician. They cannot be a nail technician. They cannot work in any hospital or health care facility. They cannot wash dishes at a nursing home. They cannot work around a school. They cannot cut the grass. They cannot mow the lawn. They cannot wash the windows. They cannot be a butcher. And, of course, the professions, they cannot enter into those.

So these individuals then come back, and they cannot find anything to do. They do not have any resources. And before we know it, most of them are back on the streets hollering crack and blow, pills and thrills, whatever it was that got them there. As a matter of fact, 67 percent of them are more than likely to be rearrested within a 3-year period of time, 67 percent. Almost half of them will be back in jail or the penitentiary within a 3-year period, almost half, 45, 46 percent.

So any opportunity that exists for them to get trained is good, even if it is only the little bit that they get. As a matter of fact, we talk about the impact, and we do need a GAO study, because in one sense we are really talking about one-quarter of 1 percent of the procurement that we are talking about. That does impact some businesses.

I consider myself a serious proponent of small businesses. I am an advocate for small businesses, and I recognize that they need opportunities and agree that they should have them, but the Prison Industries really did not send the jobs to Mexico. They did not create NAFTA. They did not create GATT. They did not create free trade. They did not create any monopolistic trade. All these individuals are, are some individuals that have gone afoul of the law and are hoping that they would have some opportunity to reclaim themselves rather than be in and out of the penitentiary, the penitentiary that we pay for, \$35,000 a year in many instances. If we can get an individual to get an individual to become self-sufficient, that is \$35,000 that we could use for something else. Support the Green amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would first like to start off with an agreement with my friend from North Carolina, who indicated when he was in the State Senate, as I was in the State Senate in Virginia, often bills would go to a study and that would defeat the bill. That is true because after they studied an issue, they would find that the bill had no merit. It also helped bills because after they studied a bill, they would find that it had more merit than they thought. So there is nothing inherently wrong with sending it to a study to get the facts. The study is already underway. The information will be to us by April, and there are a lot of statements that have been made on this floor as to whether this bill will hurt or help small business.

□ 1315

We know right now that FPI spends 75 percent of all of its revenue on purchasing supplies from outside of the prison system. Small businesses, 62 percent of the 75 percent is spent with small, disadvantaged or women-owned businesses. Only 23 percent of Federal purchases generally are spent this way. So there is a question of whether small businesses will be better or worse off if this bill passes. But let us get a study. Let us study the effect.

Last year we passed amendments similar to the provisions in this bill that affected the Department of Defense. What happened as a result of those provisions? Thirteen factories have closed, 1,700 jobs have been eliminated, 500 more jobs are expected to be eliminated in the near future. There has been a temporary upward blip in jobs in Federal Prison Industries because of the war in Iraq, but we need to study to see what the long-term effect will be.

Finally, we need to know whether or not we are going to actually appropriate the money for on-the-job training programs and the other programs in the bill. FPI pays for itself. Are we going to actually appropriate the money, or will we just let the crime rate go up? Because if we eliminate the jobs without any replacement, crime will go up.

These are the kinds of things we will learn from a study, and that is why I am delighted to stand up and support the pending amendment, and I hope it is in fact adopted.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment that is before us talking about another study, I would like to just hold up the studies that have been done on Federal Prison Industries. These are the studies that have been done over the last number of years. These are the hearings that have taken place: Committee on Small Business, Committee on the Judiciary, Committee on Education and the Workforce.

There are plenty of studies that have been completed on this issue. The time

now is to move forward. If the gentleman proposing the amendment is against the bill, he should vote against the bill, but not delay it for another 6 months.

We have seen the impact, we have seen the circumstances of what Federal Prison Industries has done. We have a modest proposal for reform. We are not putting prisoners out of work. What we are doing is providing a 5-year phase-out of the concept called mandatory sourcing. We are putting significant amounts of money into vocational training. We are going to continue to work with our colleague on the other side of the aisle, the gentleman from Virginia (Mr. SCOTT), on the issue of repatriation. On one part of that, I think we are going to have an amendment that we are going to offer together that will expand work opportunities for prisoners to do work for not-for-profit organizations and these types of things.

So I think we have much of the framework in place to move forward. We share the same vision. We want folks who are in prison to gather the skills and the capabilities that they need so that when they leave, they will be successful in society. So we share the same vision.

We share much of the same vision for how we are going to implement that, the strategies and the tactics. We have got one major issue there, and that is, is there enough work in this bill or is there not, and we are committed to working with the gentleman from Virginia (Mr. SCOTT) on other work opportunities to make sure that there is not idleness in the prisons, that the people learn the skills and have the work; and we are committed to working together. But the one thing we do not need, we do not need another study.

I urge my colleagues to vote "no" on this amendment, vote "yes" on the bill, and enable us to go forward.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find it a bit inconsistent. This is the same body that voted for NAFTA, that sent tens of thousands of American jobs to Mexico, the same body that voted for permanent normal trade relations with the Communist Chinese.

In the case of NAFTA, we have gone from a trade surplus to a trade deficit. We have sent jobs that used to be in Mississippi to Mexico. In the case of normal trade relations with China, we have taken it a step worse. We have taken jobs that used to be done in Waynesboro, Mississippi, that are now done by political prisoners in China.

To make matters worse, you can trace Chinese defense spending, and their weapons modernization has increased on a dollar-for-dollar basis with their trade surplus with the United States. So we have not only sent them our jobs; we are sending them the money they will eventually use to shoot at Americans.

My colleagues, in the response to the loss of these jobs, say it is the prisoners' fault. No, guys, it is NAFTA's fault. It is permanent trade relations with China's fault.

I can tell you one thing that my constituents want, is they want prisoners to work. They do not want them sitting on their duffs watching television. They want them to work. They want them to do something for society, to pay their debt to society. If you are going to tell them they cannot make this or that, what can they do? Because there is not enough trash on the highways to be picked up. And, by the way, no one is hiring people to pick up trash on the highways when they get out of prison.

If you are really serious about the loss of American manufacturing jobs, repeal NAFTA. If you really care about the future of this country, repeal permanent normal trade relations with the last communist superpower that is using that money to buy weapons that will eventually be used against our country. But, for gosh sakes, do not take two mistakes and compound it with a third mistake of saying prisoners cannot work and continue to do something to pay their debt to society.

I urge Members to vote against this bill.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

(Mr. WOLF asked and was given permission to revise and extend his remarks.)

Mr. WOLF. Mr. Chairman, I listened to the gentleman from Mississippi. I was walking back to my office. He really made a lot of good points. I was going to make them, and I had 4 minutes.

Let me just say, he is right. You are shooting at American prisoners who are trying to be rehabilitated, when China has taken more jobs from this country. But somebody said China is not the enemy.

China has about 11 Catholic bishops in jail today according to the Cardinal Kung Foundation, if anybody read, I did a Special Order on it—11 Catholic bishops. They have 250 evangelical house church leaders in jail today. They have plundered Tibet. Tibet is a wreck. I have been to Lhasa. Lhasa is a dirty Chinese city. Lhasa is no longer the Tibetan capital. The Muslims. China is pounding the Muslims in the northwest portion of the country.

Spying. The gentleman from Mississippi is right. The FBI comes before my appropriations subcommittee. They gave me a classified briefing. I can tell you that the Chinese are spying against us more so than the Russians were doing it. Yet what does this body do with regard to China? Zero. Zip. Not a thing.

The gentleman is right. I was opposed to granting normal trade to China. I am a free-trader. A lot of you rushed down here to give MFN to the Chinese. They are spying against us; they sold weapons to Saddam Hussein.

Remember watching that show one day? The shopping center hit in Kuwait was from a Chinese missile, sold by China to Iraq.

I know some members are frustrated because you are losing some jobs, and I want to do something to help keep jobs here. Yet you do not deal with those who are persecuting fundamentalists, who are persecuting Christians, persecuting Catholics and Protestants. I never hear anybody here speak about it. I never hear this House speak about that issue.

Tibet. Many came to see the Dalai Lama, but nobody talks about the persecution of the Buddhists. Muslims. Many of you represent large Muslim areas. Why do you not speak out when China is persecuting the Muslim faith? Spying against us. Why do you not speak out? The gentleman from Mississippi (Mr. TAYLOR) is right, China is spying against us.

China is taking high-tech jobs from us. We lost 600,000 jobs. Maybe some changes ought to be made in the FPI. The gentleman from Michigan (Mr. HOEKSTRA) is a good guy, and it pains me to be on the opposite side. Hopefully, something can be done.

There is an amendment that the gentleman from Virginia (Mr. SCOTT) has about repatriation, but we are fundamentally not dealing with a major issue here.

The gentleman from Mississippi (Mr. TAYLOR) was right. Generally he makes a lot of sense, a lot of times. I know I am using this opportunity on a bill dealing with FPI, but we are ignoring—this side and that side—are ignoring the persecution of people of faith in China.

Do you know if you need a new kidney, for \$50,000 you can get it in China? Do you want to see it? Come by my office. They are shooting people in the back of the neck. They put the bayonet up high so the body goes rigid, they shoot them, they throw the body in a canvas bag, they put it in an ambulance, and in a half hour they are doing a transplant.

When does this Congress ever speak out? When does the Congress speak out on that issue? The Congress does not. There are more slave labor camps in China today than there were in Russia when Solzhenitzyn wrote the book "Gulag Archipelago." Does this Congress ever speak out about it?

About the FPI, I know members are frustrated, and want to do something. You want to deal with this issue. But we're talking about a handful of jobs that are helping to train people so when they get out of prison they have some rehabilitation and some dignity. The gentleman from Mississippi is exactly right.

Mr. WOLF. Mr. Chairman, what is America if not a Nation that stands up for basic decency and human rights? What is America if it is not a people that speaks out for those who cannot speak out for themselves? And what will America become if we fail to speak out against dictators and despots who oppress and brutalize their own people?

China has for too long been at liberty to detain and torture and intimidate and oppress good men and women for their religious beliefs. As the world's greatest democracy and the symbol of hope for millions, America has a duty and an obligation to speak out for the oppressed people of the world. We fail in our duty if we do nothing.

It was the British philosopher and statesman Edmund Burke who said that Representatives owe you not just their industry but also their judgment. As Representatives and beholders of American ideals, we should speak out on the issue of the persecution of those of faith in China.

The litany of abuses committed by the Government of China toward its own people is long and senseless. I recently held a meeting with a number of groups who have spent years in documenting the numerous abuses committed by the Chinese Government upon the Chinese people. In the coming days, I will be highlighting the plight of different groups of long-suffering Chinese people so that colleagues can better understand the depth of this problem in China. The material I will be submitting today was prepared by the International Religious Freedom Commission, and I hope Members will read it.

As I close, 10 Catholic bishops are in China today under house arrest, and this government, our government, our Congress and the administration, does not act. The Protestant Church is being abused and beaten in China and we have refused to speak out. The Chinese have plundered Tibet, and yet the West is quiet. Muslims are being persecuted in the northwest portion of China, and yet the West speaks out not at all. The Falun Gong are being persecuted almost on a daily basis.

I think this is an opportunity to hear, in their own words, what all of these groups have to tell us in the Congress and us in the United States and us in the West about what is taking place, so that we know we should speak out on their behalf, particularly next year when the Geneva resolution with regard to condemning China on human rights comes up.

Depending on the religious organization in question, the Chinese government provided various justifications to defend its policy of repression. Its action to restrict religious belief and practice, however, go far beyond what is necessary to protect legitimate state interests.

Since 2001, the Communist government has engaged in a persistent campaign of banning some religious groups while insisting on registration for others. Many groups, particularly Christian house churches, have refused, understandably fearful that providing membership rosters would lead to regular surveillance by party and government agencies.

The government's policy of designating religious or spiritual organizations as "cults" has led to tragic outcomes for millions of religious believers. All too often victims are sentenced to "re-education through labor camps," administered by the notorious Ministry of Public Security, which appears to perpetrate human rights abuses with absolute impunity. Persons adhering to "unacceptable" faiths have been given prison sentences of up to three years without a right to a hearing, without counsel and without judicial determination of their cases.

There are at least 30 million Protestant Christians in China. Mostly, believers belong to independent house churches. Purely on ac-

count of their faith, properties belonging to or used by such groups have been confiscated, closed, or destroyed and members have been detained, tortured, and subjected to other forms of government harassment.

In June 2003, 12 members of a house church in Guna Village in Yunnan province were arrested after they sought registration with the local government. On June 6, in response to the government's "invitation" to complete the registration process, the 12 church leaders were arrested for engaging in "feudalistic superstition." Eight of the 12 were immediately sentenced to three years in "re-education through labor" camps, while the other four were indicted and are being held for trial.

In late August 2003, local officials arrested 170 house church Christians in Nanyang county, Henan province after local police reportedly raided the meeting place where the worship service was being conducted. The report indicates that the 14 leaders of the group are currently being held in detention, possibly facing serious charges, while the other members were released after having been fined, fingerprinted, and warned against continuing their activities.

The Chinese Communist state has, since the 1950s, banned the Roman Catholic Church, replacing it with the state-approved Catholic Patriotic Association. Through this state organization, the Communist government has claimed the exclusive right to appoint Chinese bishops. Most Chinese clerics, however, have refused to accept the legitimacy of government appointees. As a result, many Roman Catholic bishops and priests have been harassed, detained, or imprisoned.

According to the Cardinal Kung Foundation, a number of Catholic bishops and priests who refuse to submit to government tutelage remain in prison or in detention and the status of other priests and lay persons remains unknown. As of August 2003, at least 10 Catholic bishops, including Bishop Su Zhimin, whose whereabouts are unknown, are imprisoned, in detention, under house arrest, or under surveillance.

In Tibet, Buddhist monks and nuns serve lengthy sentences for voicing their allegiance to the Dalai Lama. In point of fact, the great majority of Tibetan political prisoners are monks and nuns.

The longest-serving Tibetan political prisoner, Tagna Jigme Zangpo, was granted a medical parole to come to the United States in summer 2002 when he was in the middle of a 28-year sentence before his "early" release. Ngawang Sandrol, a member of the famous Tibetan "Singing Nuns" who was released last year, had served over 10 years in the infamous Drapchi Prison before her release. According to the Tibet Information Network, the State Department, and the testimony of former Tibetan nuns like Ngawang Sandrol, many of these prisoners have been severely beaten and subjected to other extreme forms of punishment. Some have died in prison.

The Chinese government has denied repeated requests, including from the U.N. High Commissioner for Human Rights, for access to the 12-year-old boy whom the Dalai Lama recognizes as the 11th Panchen Lama. Government officials have stated that he is being "held for his own safety," while at the same time insisting that another boy is the true Panchen Lama.

The Chinese government's official ban on the Falun Gong movement, in 1999, has meant heightened government repression for all religious organizations designated by the government as "cults." According to Falun Gong practitioners, as many as 100,000 of their members have been sent to labor camps without trial. They claim that as many as 700 may have died as a result of police brutality either while in prison or after their release.

In largely Muslim Xinjiang, religious freedom is severely curtailed by the government, which indiscriminately links Muslim religious expression with "separatist" or "terrorist" acts. The indiscriminate repression of the Uighur people is best exemplified by the arrest and imprisonment of Rebiya Kadeer, a prominent Uighur businesswoman and activist, who was arrested in 1999 after she met with a visiting U.S. congressional delegation. Close supervision of all mosques in the region by local Communist Party officials is now commonplace.

China repeatedly engages in severe—systematic, egregious—violations of religious freedom. If our ideals and what America stands for—both at home and abroad—are to mean anything, then we must not shrink from this issue. We must not allow human considerations to come secondary to the pursuit of trade.

We must dare to speak out for those who have no voice.

Mr. WOLF. Mr. Chairman, over the last two weeks I have submitted testimony from various groups that I have been meeting with regarding China's continual abuse of human rights. Whether it be restrictions on religious freedom; the persecution and arrest of Catholics and Protestants; the use of barbaric labor camps; the continual victimization of members of the Falun Gong; or the abhorrent and coercive One-Child policy, China's government continues to show nothing but contempt for its citizens and the opinions of the rest of the world.

These offenses alone should be enough to condemn the government of China. However, on top of these crimes the People's Republic of China poses a great and serious counterintelligence threat to America, the extent of which will, I have no doubt, concern our colleagues greatly.

AN UNCLASSIFIED REPORT FROM THE FBI ON THE PEOPLE'S REPUBLIC OF CHINA INTELLIGENCE COLLECTION EFFORTS

The People's Republic of China (PRC) poses a significant counterintelligence threat to the United States (U.S.) via its cadre of professional intelligence officers who collect political, military and economic intelligence, and its network of non-professional individuals and organizations that collect science and technology, high-tech and proprietary information completely outside the direction and control of the PRC Intelligence Services.

The PRC's professional military intelligence organization, the Military Intelligence Department of the People's Liberation Army (MID/PLA), also known as the Second Department of the PLA (2PLA), relies mainly on intelligence collection through its military attaches. The PRC's military seeks military, science and technology, and some political information through its contacts and agents. In 1987, PRC military attaché Hou Desheng was intercepted by FBI Special Agents in Washington, D.C. while receiving and paying for classified U.S. Government information.

The PRC's professional civilian intelligence, the Ministry of State Security, tar-

gets U.S. political and policy information, runs influence operations against Taiwan and other political targets, attempts to penetrate the U.S. Government, and directs a growing number of covert science and technology collection operations. Collection operations from this civilian segment of the PRC Intelligence Services are difficult to counter because the Chinese typically insist that the physical transfer of documents or items take place in the PRC. PRC civilian intelligence officers in the U.S. direct part of their efforts toward developing as many Americans of Chinese ancestry into what the PRC terms "patriotic Overseas Chinese."

An example of the Ministry of State Security's success in penetrating the U.S. Government was the Larry Wu-tai Chin case. Chin, a U.S. Government employee of 30 years, was an actual agent of the Ministry of State Security. While residing in the U.S. and during his employment with the government, Chin provided information to the Ministry of State Security for over 40 years. Chin was arrested for espionage activities in 1985 and was subsequently convicted of those charges in 1986. Chin committed suicide prior to being sentenced.

Like most countries operating intelligence services within the U.S., the PRC employs a number of commonly-used collection techniques. Their intelligence services attempt to gain access to sensitive foreign facilities, try to meet individuals with access to classified information, and attempt to photograph military installations and equipment. However, the PRC employs several non-traditional methods and unlike most other countries, the PRC makes extensive use of non-intelligence personnel.

Consumers of intelligence such as China's production facilities, laboratories and research institutes often bypass professional intelligence services in favor of direct intelligence collection efforts. Opportunities to accomplish direct collection within the U.S. are facilitated through the very large number of temporary visitors in private companies, academic institutions, and U.S. Government facilities. A significant number of these delegation members are science and technology experts, often characterized by their American hosts as aggressive and extremely knowledgeable in their professional fields. In many cases, Chinese-Americans employed by these entities and institutions are sought out by members of the PRC delegations as persons who might be willing to assist them.

In 1997, Peter Lee pleaded guilty to transmitting U.S. national defense information to the PRC. The consumer of Lee's information was a PRC institute, not a traditional PRC intelligence service. In 2002, a PRC national was arrested for attempting to steal proprietary seismic-imaging software from a Silicon Valley company. This was the second unsuccessful attempt by an employee of a PRC based company to obtain this proprietary software within a span of five years. Later in 2002, two PRC nationals were indicted for economic espionage related to their attempted theft of trade secrets from several Silicon Valley companies. These two individuals were subsequently linked to a PRC based high-technology research and development program.

As the PRC's varied presence in the U.S. continues to grow, more PRC nationals find themselves in positions of direct or indirect access to items of intelligence interest to China. If they can find the right consumer, PRC nationals involved in intelligence collection may be in a position to profit from their services. These individuals do not operate under the direction or control of either the military or civilian PRC intelligence services.

In 1994, two PRC nationals were indicted on computer fraud and fraud by wire in connection with the theft of \$950,000 of proprietary computer source code developed by a U.S. firm. The end-user of the code was a Chinese machinery import and export company. Evidence collected in the investigation indicated that the two perpetrators had shopped the computer source code around for the best price.

Whether directed by one of its intelligence services, manufacturing sectors or research institutes, the PRC threat to U.S. policy, intelligence, military, national security and proprietary/economic information is growing. In response to this expanding PRC threat, the FBI, in conjunction with the U.S. Intelligence Community, continues to pursue an aggressive and focused counterintelligence program.

Mr. HOEKSTRA. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. I thank my colleague for yielding.

Mr. Chairman, as the gentleman is worried about China and as the gentleman is also worried about FPI, I think it is fair to note that a number of us have been with him on the issue of China. I voted against PNTR, both again for the jobs and because of the persecution that is going on there and because of their military intervention.

I believe that we need to protect American jobs here, both from the Chinese; and we need to allow those folks at least to have the opportunity to try to keep their jobs if they are competing against Federal Prison Industries. We are going to make sure that there is plenty of work and rehabilitative services for those in our prisons.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I came to this floor earlier, and my opening remarks in this debate were to acknowledge the hard work that had taken place in the Committee on the Judiciary and our other committees on this particular legislation. In fact, I had complemented the chairman and ranking member of the full committee and the chairman and ranking member of the subcommittee dealing with the Committee on the Judiciary. I know other committees had jurisdiction as well, and I see a lot of my good friends from the Committee on Small Business, so I know this is a very sensitive and emotional issue. I applaud the work and compromise that has already taken place.

But I would like to have taken away the suggestion that any of us are trying to gut this bill, or to make frivolous the issues that are seen in this bill. In fact, my good friend from Michigan, I almost wish I could carve out for him a separate response to some of the very vital concerns that he has mentioned. But I want to cite just an example, because I have heard a line of reasoning dealing with this whole question of trade agreements, that we are mired down in trade agreements, and that may be another issue.

But I do want to cite a figure, and I am saddened by this number. We have lost 600,000 textile jobs over the last 10 years; but as we stand here today, only 7,000 inmates are doing anything dealing with the issue of the loss of textile jobs. Only 7,000 of them are doing textile work, but we have lost 600,000 jobs.

I raise this point to suggest that the amendment offered by the gentleman from Wisconsin (Mr. GREEN) makes sense because what it is saying is it is not trying to be another study. The Green amendment specifically directs itself to the language of this bill, asking for the study on the impact of this legislation.

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What will happen as we drastically modify prison industries? So we cannot compare apples and oranges. Frankly, we have the data that suggests that this Nation has lost 600,000 textile jobs. My friends in the South have told me that this is an anguish with them. But of those 600,000, even if it is included, we know that there are 7,000 inmates doing something with textiles. This amendment asks to look at these issues along with safety and management and other issues.

But, Mr. Chairman, I want to get to the heart of the matter, and that is who is in these prisons. When I walked through the Federal prison in Beaumont just a few months ago, recognizing many of my constituents, seeing people who were both remorseful but, as well, certainly had a number of other bases for their presence there, many nonviolent offenders, all of them desiring another life, all of them desiring to get out to be with their families and to be a provider. In this instance, all of them were men. And the idleness, Mr. Chairman, was tragic. It was absolutely tragic. They were begging for things to do. They were standing in line to do kitchen duty. There were not enough hours for them to do this kind of work. And if my colleagues have not visited, I would ask my colleagues to take some time to realize that lives may have gone awry and astray but, frankly, these are Americans who want to have their lives rehabilitated.

The real tragedy of those incarcerated, and in this instance I speak to those having perpetrated nonviolent crimes, and there are many who are looking for a better life who, unfortunately, perpetrated a violent crime, is their family members. Those dollars that they gain, Mr. Chairman, from being in a prison industry go home to support those children, that elderly parent, or maybe even that spouse. And if anyone wants to tell a tale of woe that we document in our high schools today, in our schools today, the child who is performing poorly, the child who seems to always get in trouble, the child who seems distressed and disturbed, one can be assured that, in many instances, it is the child of an incarcerated parent.

Mr. Chairman, it is time now that we support an initiative that will allow us

to study the overall impact, negative impact of this legislation. I support the Green amendment, and I ask that my colleagues support it.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. GREEN).

The amendment in the nature of a substitute was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.

Section 4124 of title 18, United States Code, is amended to read as follows:

“§4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries

“(a) IN GENERAL.—Purchases from Federal Prison Industries, Incorporated, a wholly owned Government corporation, as referred to in section 9101(3)(E) of title 31, may be made by a Federal department or agency only in accordance with this section.

“(b) SOLICITATION AND EVALUATION OF OFFERS AND CONTRACT AWARDS.—(1) If a procurement activity of a Federal department or agency has a requirement for a specific product or service that is authorized to be offered for sale by Federal Prison Industries, in accordance with section 4122 of this title, and is listed in the catalog referred to in subsection (g), the procurement activity shall solicit an offer from Federal Prison Industries, if the purchase is expected to be in excess of the micro-purchase threshold (as defined by section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f))).

“(2) A contract award for such product or service shall be made using competitive procedures in accordance with the applicable evaluation factors, unless a determination is made by the Attorney General pursuant to paragraph (3) or an award using other than competitive procedures is authorized pursuant to paragraph (7).

“(3) The procurement activity shall negotiate with Federal Prison Industries on a noncompetitive basis for the award of a contract if the Attorney General determines that—

“(A) Federal Prison Industries cannot reasonably expect fair consideration to receive the contract award on a competitive basis; and

“(B) the contract award is necessary to maintain work opportunities otherwise unavailable at the penal or correctional facility at which the contract is to be performed to prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration of such facility.

“(4) Except in the case of an award to be made pursuant to paragraph (3), a contract award shall be made with Federal Prison Industries only if the contracting officer for the procurement activity determines that—

“(A) the specific product or service to be furnished will meet the requirements of the procurement activity (including any applicable prequalification requirements and all specified commercial or governmental standards pertaining to quality, testing, safety, serviceability, and warranties);

“(B) timely performance of the contract can be reasonably expected; and

“(C) the contract price does not exceed a current market price.

“(5) A determination by the Attorney General pursuant to paragraph (3) shall be—

“(A) supported by specific findings by the warden of the penal or correctional institution

at which a Federal Prison Industries workshop is scheduled to perform the contract;

“(B) supported by specific findings by Federal Prison Industries regarding why it does not expect to win the contract on a competitive basis; and

“(C) made and reported in the same manner as a determination made pursuant to section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)).

“(6) If the Attorney General has not made the determination described in paragraph (3) within 30 days after Federal Prison Industries has been informed of a contracting opportunity by a procurement activity, the procurement activity may proceed to conduct a procurement for the product or service in accordance with the procedures generally applicable to such procurements by the procurement activity.

“(7) A contract award may be made to Federal Prison Industries using other than competitive procedures if such product or service is only available from Federal Prison Industries and the contract may be awarded under the authority of section 2304(c)(1) of title 10 or section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(1)), as may be applicable, and pursuant to the justification and approval requirements relating to such noncompetitive procurements specified by law and the Governmentwide Federal Acquisition Regulation.

“(c) OFFERS FROM FEDERAL PRISON INDUSTRIES.—A timely offer received from Federal Prison Industries to furnish a product or service to a Federal department or agency shall be considered for award without limitation as to the dollar value of the proposed purchase.

“(d) PERFORMANCE BY FEDERAL PRISON INDUSTRIES.—Federal Prison Industries shall perform its contractual obligations under a contract awarded by a Federal department or agency to the same extent as any other contractor.

“(e) FINALITY OF CONTRACTING OFFICER'S DECISION.—(1) A decision by a contracting officer regarding the award of a contract to Federal Prison Industries or relating to the performance of such contract shall be final, unless reversed on appeal pursuant to paragraph (2) or (3).

“(2) The Chief Executive Officer of Federal Prison Industries may appeal to the head of a Federal department or agency a decision by a contracting officer not to award a contract to Federal Prison Industries pursuant to subsection (b)(4). The decision of the head of a Federal department or agency on appeal shall be final.

“(3) A dispute between Federal Prison Industries and a procurement activity regarding performance of a contract shall be subject to—

“(A) alternative means of dispute resolution pursuant to subchapter IV of chapter 5 of title 5; or

“(B) final resolution by the board of contract appeals having jurisdiction over the procurement activity's contract performance disputes pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

“(f) REPORTING OF PURCHASES.—Each Federal department or agency shall report purchases from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))) in the same manner as it reports to such System any acquisition in an amount in excess of the simplified acquisition threshold (as defined by section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

“(g) CATALOG OF PRODUCTS.—Federal Prison Industries shall publish and maintain a catalog of all specific products and services that it is authorized to offer for sale. Such catalog shall be periodically revised as products and services are added or deleted by its board of directors (in accordance with section 4122(b) of this title).

“(h) COMPLIANCE WITH STANDARDS.—Federal Prison Industries shall comply with Federal occupational, health, and safety standards with

respect to the operation of its industrial operations.”.

AMENDMENT NO. 1 OFFERED BY MR. TOOMEY

Mr. TOOMEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TOOMEY:

Page 7, line 17, strike the period and insert the following: “, unless the contract opportunity has been reserved for competition exclusively among small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) and its implementing regulations.”.

Mr. TOOMEY. Mr. Chairman, it seems to me we have had considerable debate about the substance of this bill today, and there is substantial evidence that the mandatory source status that is enjoyed by FPI is a policy that is harmful to a variety of American industries and workers, including the furniture manufacturers and the garment-makers in my district. The core objective of this bill is to eliminate the status, the FPI status as a mandatory source supplier and, thereby, require the FPI to compete for Federal contracts rather than have the opportunity to simply claim them. I am a cosponsor of this bill, and I applaud this effort and I support the bill.

What my amendment would do would further define the FPI's role in competing with private sector small businesses. Specifically, my amendment would prohibit the FPI from bidding on any contracts that are intended to be exclusively set aside for small business concerns.

This Congress and many Congresses before us have established, for a variety of reasons, that a certain percentage of Federal Government procurements should be made through small businesses, and we call those small businesses set-asides. The whole idea has always been to ensure that small businesses, mom-and-pops, local people struggling, in all of our districts and in all of our communities, to get a business off the ground and to employ some people, that they get a shot at some of the business that their tax dollars pay for.

It seems abundantly obvious to me that the Federal Prison Industry does not in any way qualify as a small business nor fit the descriptions that most of us have in mind when we think about small businesses. With \$500 billion in annual sales, with 20,000 employees, with this network within the Federal penitentiaries in America, that is not what we mean when we talk about small business. It was never the intent of Congress that the Federal Prison Industry should be able to compete for the contracts that are intended to be set aside for small businesses.

Yet, last year, when we repealed the mandatory source status for the FPI with respect to DOD procurements, unfortunately, regulations were promul-

gated that specifically allowed the Federal Prison Industry to compete for small business set-asides within DOD. My amendment would correct this error with respect to DOD, but it also would apply to the other Federal agencies, and it is based on a simple premise: that small business set-asides should in fact be for small businesses, not for the FPI. It is tough enough for small businesses to compete against large businesses. I do not think they should have to compete against the Federal Prison Industry. This is a good bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. TOOMEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding. This is a good bill and this is also a good amendment, and I am pleased to support it.

Mr. TOOMEY. Mr. Chairman, reclaiming my time, I appreciate the support of the Chairman. I appreciate the support of the author of the bill. I urge my colleagues to support the amendment and the underlying bill.

Mr. MCCOTTER. Mr. Chairman, I move to strike the last word.

I too agree that the Toomey amendment is a good addition to this bill. Business spends what it makes, government spends what it takes, and government should not take taxpayers' money and go into business against them and put these hardworking, tax-paying Americans out of business. The Toomey amendment will help curb this repugnant practice of harming our small businesses.

Of course, rehabilitation of prisoners is a worthy goal, but rehabilitation is not the exclusive aim of incarceration. After all, Dostoevsky did not write *Crime and Rehabilitation*. Thus, we must now write and pass a law to stop government from rehabilitating prisoners by punishing productive Americans. So I urge support of the Toomey amendment.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Toomey amendment. The amendment offered by my good friend and Committee on Small Business subcommittee chairman makes perfect sense. The amount of competition that the FPI would bring against small business in set-aside procurements goes against the very intention of having a small business set-aside in the first place. Common sense tells us that the small businesses will have to unfairly lower their prices to match the levels that the FPI can offer.

Also, knowing how Federal procurement works, I can predict that contracting officers will tailor their acquisitions in such a way as to guarantee that FPI will win when that is the outcome the contracting office wants, even though they may still carry it out under a small business set-aside.

With specifications written for products the FPI has experience and economy of scale in making, of course, they will undercut the small businesses and win such an unfair competition. A small business cannot survive by buying in on a contract at a loss, but the FPI could do business indefinitely by using such a strategy.

The final irony of all this is that the administration is valiantly trying to increase opportunities for small businesses by unbundling large procurements and giving them a chance to win a contract of a size they can handle. Turning around and letting the FPI get into the small business-sized contracts would negate whatever progress we would be making on that front, and we would end up right where we started. I would remind my colleagues that the government has not obtained its 23 percent goal for contracting with small businesses for several years.

With a workforce of over 20,000, FPI is a large business, and FPI should be competing with other large contractors. Let us keep them out of the sort of procurements we set aside for mom-and-pop small businesses.

I do not want to be holding hearings investigating why the FPI is winning one small business set-aside after the other. Let us solve this problem once and for all and support the Toomey amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Michigan:

Page 7, after line 12, insert the following:

(8) A contract award may be made to Federal Prison Industries using other than competitive procedures by the Federal Bureau of Prisons.

Mr. SMITH of Michigan. Mr. Chairman, part of our goal is to keep prisoners working, especially if they are working to take care of themselves. This amendment simply provides that the law would stay as it is now for the Federal Bureau of Prisons. The Federal Prison System, should have prisoners in prison industries produce the products they need.

I chaired the Department of Corrections budget in the State of Michigan for years, and in terms of the gentleman from Michigan's (Mr. HOEKSTRA) idea that we should have competitive bids, that is what we have done in Michigan. I mean the prison industry competes with the private sector. If they cannot beat the bid, or the quality of the product, they do not get the bid.

But what is happening in the State of Michigan is that our prison industries is still making a great deal of money. The incentive has been there to be productive; and, in terms of recidivism,

there has been a greater interest by these workers to do a better job. That means they are more likely to get a job on the outside. We instigated provisions in Michigan that prisoners have to pass drug tests before they are even allowed to work. So working has become a privilege. It gives them an advantage over other prisoners. That is what we should seek to do in our federal system.

In fact, when I first went into the Michigan legislature, the prisoners produced farm products. They produced the fruits and the vegetables and the milk and the butter and they did maintenance as well as prison industries sales. It reduced the cost to State government of taking care of those prisoners, and that is the way it should be at the federal level.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Let me just make it clear that what the gentleman is proposing is that Federal Prison Industries can have a mandatory source contract for procurement by the Bureau of Prisons. In other words, what is used in the prisons can be made by FPI on a mandatory source contract. Am I correct in that impression?

Mr. SMITH of Michigan. Mr. Chairman, the gentleman is correct on that. Actually, "may" is the exact language of the amendment. So it is a decision of the Federal Prison System whether they do the sole source contracting for their own use. So it still leaves flexibility, but it allows the prison system to require prisoners to make more of the things that are going to be required by the Bureau of Prisons.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, with that understanding, I am happy to support the amendment. I believe it makes a significant improvement to the bill.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for supporting the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. SMITH).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 2? If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. PUBLIC PARTICIPATION REGARDING EXPANSION PROPOSALS BY FEDERAL PRISON INDUSTRIES.

Section 4122(b) of title 18, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (12); and

(2) by striking paragraphs (4) and (5) and inserting the following new paragraphs:

"(4) A decision to authorize Federal Prison Industries to offer a new specific product or specific service or to expand the production of an existing product or service shall be made by its board of directors in conformance with the requirements of subsections (b), (c), (d), and (e) of section 553 of title 5, and this chapter.

"(5)(A) Whenever Federal Prison Industries proposes to offer for sale a new specific product or specific service or to expand production of a currently authorized product or service, the Chief Operating Officer of Federal Prison Industries shall submit an appropriate proposal to the board of directors and obtain the board's approval before initiating any such expansion. The proposal submitted to the board shall include a detailed analysis of the probable impact of the proposed expansion of sales within the Federal market by Federal Prison Industries on private sector firms and their non-inmate workers.

"(B)(i) The analysis required by subparagraph (A) shall be performed by an interagency team on a reimbursable basis or by a private contractor paid by Federal Prison Industries.

"(ii) If the analysis is to be performed by an interagency team, such team shall be led by the Administrator of the Small Business Administration or the designee of such officer with representatives of the Department of Labor, the Department of Commerce, and the Federal Procurement Data Center.

"(iii) If the analysis is to be performed by a private contractor, the selection of the contractor and the administration of the contract shall be conducted by one of the entities referenced in clause (ii) as an independent executive agent for the board of directors. Maximum consideration shall be given to any proposed statement of work furnished by the Chief Operating Officer of Federal Prison Industries.

"(C) The analysis required by subparagraph (A) shall identify and consider—

"(i) the number of vendors that currently meet the requirements of the Federal Government for the specific product or specific service;

"(ii) the proportion of the Federal Government market for the specific product or specific service currently furnished by small businesses during the previous 3 fiscal years;

"(iii) the share of the Federal market for the specific product or specific service projected for Federal Prison Industries for the fiscal year in which production or performance will commence or expand and the subsequent 4 fiscal years;

"(iv) whether the industry producing the specific product or specific service in the private sector—

"(I) has an unemployment rate higher than the national average; or

"(II) has a rate of unemployment for workers that has consistently shown an increase during the previous 5 years;

"(v) whether the specific product is an import-sensitive product;

"(vi) the requirements of the Federal Government and the demands of entities other than the Federal Government for the specific product or service during the previous 3 fiscal years;

"(vii) the projected growth or decline in the demand of the Federal Government for the specific product or specific service;

"(viii) the capability of the projected demand of the Federal Government for the specific product or service to sustain both Federal Prison Industries and private vendors; and

"(ix) whether authorizing the production of the new product or performance of a new service will provide inmates with the maximum opportunity to acquire knowledge and skill in trades and occupations that will provide them with a means of earning a livelihood upon release.

"(D)(i) The board of directors may not approve a proposal to authorize the production and sale of a new specific product or continued sale of a previously authorized product unless—

"(I) the product to be furnished is a prison-made product; or

"(II) the service to be furnished is to be performed by inmate workers.

"(ii) The board of directors may not approve a proposal to authorize the production and sale of a new prison-made product or to expand production of a currently authorized product if the product is—

"(I) produced in the private sector by an industry which has reflected during the previous year an unemployment rate above the national average; or

"(II) an import-sensitive product.

"(iii) The board of directors may not approve a proposal for inmates to provide a service in which an inmate worker has access to—

"(I) personal or financial information about individual private citizens, including information relating to such person's real property, however described, without giving prior notice to such persons or class of persons to the greatest extent practicable;

"(II) geographic data regarding the location of surface and subsurface infrastructure providing communications, water and electrical power distribution, pipelines for the distribution of natural gas, bulk petroleum products and other commodities, and other utilities; or

"(III) data that is classified.

"(iv)(I) Federal Prison Industries is prohibited from furnishing through inmate labor construction services, unless to be performed within a Federal correctional institution pursuant to the participation of an inmate in an apprenticeship or other vocational education program teaching the skills of the various building trades.

"(II) For purposes of this clause, the term 'construction' has the meaning given such term by section 2.101 of the Federal Acquisition Regulation (48 C.F.R. part 2.101), as in effect on June 1, 2002, including the repair, alteration, or maintenance of real property in being.

"(6) To provide further opportunities for participation by interested parties, the board of directors shall—

"(A) give additional notice of a proposal to authorize the production and sale of a new product or service, or expand the production of a currently authorized product or service, in a publication designed to most effectively provide notice to private vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposal, which notice shall offer to furnish copies of the analysis required by paragraph (5) and shall solicit comment on the analysis;

"(B) solicit comments on the analysis required by paragraph (5) from trade associations representing vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposal to authorize the production and sale of a new product or service (or expand the production of a currently authorized product or service); and

"(C) afford an opportunity, on request, for a representative of an established trade association, labor union, or other private sector representatives to present comments on the proposal directly to the board of directors.

"(7) The board of directors shall be provided copies of all comments received on the expansion proposal.

"(8) Based on the comments received on the initial expansion proposal, the Chief Operating Officer of Federal Prison Industries may provide the board of directors a revised expansion proposal. If such revised proposal provides for expansion of inmate work opportunities in an industry different from that initially proposed, such revised proposal shall reflect the analysis required by paragraph (5)(C) and be subject to the public comment requirements of paragraph (6).

"(9) The board of directors shall consider a proposal to authorize the sale of a new specific product or specific service (or to expand the volume of sales for a currently authorized product

or service) and take any action with respect to such proposal, during a meeting that is open to the public, unless closed pursuant to section 552(b) of title 5.

"(10) In conformity with the requirements of paragraphs (5) through (9) of this subsection, the board of directors may—

"(A) authorize the donation of products produced or services furnished by Federal industries and available for sale;

"(B) authorize the production of a new specific product or the furnishing of a new specific service for donation; or

"(C) authorize a proposal to expand production of a currently authorized specific product or specific service in an amount in excess of a reasonable share of the market for such product or service, if—

"(i) a Federal agency or department, purchasing such product or service, has requested that Federal Prison Industries be authorized to furnish such product or service in amounts that are needed by such agency or department; or

"(ii) the proposal is justified for other good cause and supported by at least eight members of the board."

The CHAIRMAN pro tempore. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. TRANSITIONAL MANDATORY SOURCE AUTHORITY.

(a) **IN GENERAL.**—Notwithstanding the requirements of section 4124 of title 18, United States Code (as amended by section 2 of this Act), a Federal department or agency having a requirement for a product that is authorized for sale by Federal Prison Industries and is listed in its catalog (referred to in section 4124(g) of title 18, United States Code) shall first solicit an offer from Federal Prison Industries and make purchases on a noncompetitive basis in accordance with this section.

(b) **PREFERENTIAL SOURCE STATUS.**—Subject to the limitations of subsection (d), a contract award shall be made on a noncompetitive basis to Federal Prison Industries if the contracting officer for the procurement activity determines that—

(1) the product offered by Federal Prison Industries will meet the requirements of the procurement activity (including commercial or governmental standards or specifications pertaining to design, performance, testing, safety, serviceability, and warranties as may be imposed upon a private sector supplier of the type being offered by Federal Prison Industries);

(2) timely performance of the contract by Federal Prison Industries can be reasonably expected; and

(3) the negotiated price does not exceed a fair and reasonable price.

(c) **CONTRACTUAL TERMS.**—The terms and conditions of the contract and the price to be paid to Federal Prison Industries shall be determined by negotiation between Federal Prison Industries and the Federal agency making the purchase. The negotiated price shall not exceed a fair and reasonable price determined in accordance with the procedures of the Federal Acquisition Regulation.

(d) **PERFORMANCE OF CONTRACTUAL OBLIGATIONS.**—

(1) **IN GENERAL.**—Federal Prison Industries shall perform the obligations of the contract negotiated pursuant to subsection (c).

(2) **PERFORMANCE DISPUTES.**—If the head of the contracting activity and the Chief Operating Officer of Federal Prison Industries are unable to resolve a contract performance dispute to their mutual satisfaction, such dispute shall be resolved pursuant to section 4124(e)(3) of title 18, United States Code (as added by section 2 of this Act).

(e) **LIMITATIONS ON USE OF AUTHORITY.**—

(1) **IN GENERAL.**—As a percentage of the sales made by Federal Prison Industries during the

base period, the total dollar value of sales to the Government made pursuant to subsection (b) and subsection (c) of this section shall not exceed—

(A) 90 percent in fiscal year 2005;

(B) 85 percent in fiscal year 2006;

(C) 70 percent in fiscal year 2007;

(D) 55 percent in fiscal year 2008; and

(E) 40 percent in fiscal year 2009.

(2) **SALES WITHIN VARIOUS BUSINESS SECTORS.**—Use of the authority provided by subsections (b) and (c) shall not result in sales by Federal Prison Industries to the Government that are in excess of its total sales during the base year for each business sector.

(3) **LIMITATIONS RELATING TO SPECIFIC PRODUCTS.**—Use of the authorities provided by subsections (b) and (c) shall not result in contract awards to Federal Prison Industries that are in excess of its total sales during the base period for such product.

(4) **CHANGES IN DESIGN SPECIFICATIONS.**—The limitations on sales specified in paragraphs (2) and (3) shall not be affected by any increases in the unit cost of production of a specific product arising from changes in the design specification of such product directed by the buying agency.

(f) **DURATION OF AUTHORITY.**—The preferential contracting authorities authorized by subsection (b) may not be used on or after October 1, 2009, and become effective on the effective date of the final regulations issued pursuant to section 18.

(g) **DEFINITIONS.**—For the purposes of this section—

(1) the term "base period" means the total sales of Federal Prison Industries during the period October 1, 2001, and September 30, 2002 (Fiscal Year 2002);

(2) the term "business sectors" means the eight product/service business groups identified in the 2002 Federal Prison Industries annual report as the Clothing and Textiles Business Group, the Electronics Business Group, the Fleet Management and Vehicular Components Business Group, the Graphics Business Group, the Industrial Products Business Group, the Office Furniture Business Group, the Recycling Activities Business Group, and the Services Business Group; and

(3) the term "fair and reasonable price" shall be given the same meaning as, and be determined pursuant to, part 15.8 of the Federal Acquisition Regulation (48 C.F.R. 15.8).

(h) **FINDING BY ATTORNEY GENERAL WITH RESPECT TO PUBLIC SAFETY.**—(1) Not later than 60 days prior to the end of each fiscal year specified in subsection (e)(1), the Attorney General shall make a finding regarding the effects of the percentage limitation imposed by such subsection for such fiscal year and the likely effects of the limitation imposed by such subsection for the following fiscal year.

(2) The Attorney General's finding shall include a determination whether such limitation has resulted or is likely to result in a substantial reduction in inmate industrial employment and whether such reductions, if any, present a significant risk of adverse effects on safe prison operation or public safety.

(3) If the Attorney General finds a significant risk of adverse effects on either safe prison management or public safety, he shall so advise the Congress.

(4) In advising the Congress pursuant to paragraph (3), the Attorney General shall make recommendations for additional authorizations of appropriations to provide additional alternative inmate rehabilitative opportunities and additional correctional staffing, as may be appropriate.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SCOTT of Virginia:

Page 17, strike line 16 and all that follows through page 18, line 19.

Page 18, line 20, strike "(2)" and insert "(b)" (and align the margin with subsection (a) and redesignate subsequent subsections accordingly).

Page 19, lines 7 and 8, strike "subsection (b) and subsection (c) of".

Page 19, lines 15 and 16, and lines 21 and 22, strike "subsections (b) and (c)" and insert "this section".

Page 20, line 7, strike "preferential".

Page 20, line 8, strike "subsection (b)" and insert "this section".

Mr. SCOTT of Virginia. Mr. Chairman, this is a "truth-in-legislating" amendment. We have been told that the underlying bill phases out mandatory source. This amendment would actually provide for a 5-year phaseout of the mandatory source law, which is what the proponents say the bill does. Unfortunately, the bill, in fact, immediately eliminates the mandatory source program and replaces it with an agency preference program where an agency may be required to make a purchase or may not, and there is no way to know whether it will actually replace the number of jobs without significant erosion of the program. After the 5 years, agencies under the bill do not even have to go through a preference process, and if one reads the language left after my amendment strikes out the agency preference program, we still have the bill, but with a 5-year phaseout of the mandatory source rule now in effect.

Now, if anybody believes that there is a 5-year phaseout of the current mandatory source rule under the bill, rather than an immediate elimination, just read the bill. Page 4 of the bill, starting on line 20, says "agencies shall solicit an offer" from FPI. Nothing wrong with that.

□ 1345

But note that the words no longer require a purchase, which is the current mandatory source law.

Proponents of the bill would have you believe that the public wants agency bureaucrats to have the option of buying furniture or office supplies with all the bells and whistles and all the colors, shapes, and sizes that the private sector can muster, rather than having them promoting the proven public policy of promoting meaningful work experience for inmates, most of whom would not be imprisoned in the first place if they had the work place skills and knew how to hold down a job.

Now, FPI was created in 1934. And the point of the 1934 law was, as a matter of sound public policy, that we should carve out a little minuscule portion of Federal agency purchases to provide marketable work skills and productivity to prisoners so that they will be productively occupied while in prison and be able to get a job when

they get out. Now, this program has been shown that it works. Not only has it shown that inmates who participate in FPI are significantly more likely to find productive employment, but they have shown that they are 24 percent less likely to commit a new crime upon release. That means 24 percent fewer victims.

The program and developers are aware that inmates constitute the least educated, least disciplined, least trained, least skilled, and least productive workforce around. The program requires an emphasis on manual work to employ as many people as possible. And as a result of all of those factors, the FPI estimates that it takes four inmates to do the work of one properly trained private sector employee.

That is clearly not the intent of the developers of the program to have inmates compete with the private sector, or that inmates be prevented from doing any work that could be done by the private sector. In 1934, any FPI work could have been done by the private sector, and that is still the case today.

The whole of the FPI revenues constitute less than one-quarter of 1 percent of Federal agency purchasing. And with the entire private sector market and 99.75 percent of the Federal market, spreading the remaining one-quarter of 1 percent of the Federal market over the entire private business sector is not likely to create any new jobs. So it would simply be absorbed in the existing workforce.

On the other hand, almost 80 percent of the revenues that FPI takes in goes back to purchase raw materials through the Federal procurement process and a subcontractor with private sector businesses producing FPI products for agencies. Now there are hundreds of these businesses. They hire thousands of workers. Over 60 percent of them are small, minority, women-owned or disadvantaged businesses, and for many of them FPI is their only client. A high number of these private sector jobs are held by law-abiding citizens, and they will be immediately gone with the elimination of the mandatory source of FPI since there will be no reliable orders or revenues.

When we put restrictions on the mandatory source program in the Department of Defense last year, we saw a significant erosion of inmate jobs without any indication that industry jobs in the private sector would increase as a result.

We should not be gutting this proven crime-reduction program that does not require taxpayer funding, suddenly, without knowing the consequences and without giving the prison system a realistic period to try to develop something to replace it. We should certainly not be doing this to give agency bureaucrats just a few more choices in furniture purchases.

Several of us have asked the GAO to study the impact on the prison system, FPI, the businesses, and the public

from eliminating the FPI mandatory source provision. This will provide a meaningful transition. And I would hope that we would adopt the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment puts the fox back to guarding the chicken coop, at least during the phase-out period in this legislation, and it is another attempt to buy time. The way it does it is to eliminate the competitive procedures that are in section 4 of the bill, which is the transitional mandatory source authority.

Now, what section 4 of the bill does, what the amendment of the gentleman from Virginia (Mr. SCOTT) tries to eliminate is to phase out FPI's dependence upon the narcotic of mandatory source procurement. And it eliminates the requirements that, during the phase-out of mandatory source for all products still being provided under this authority, that FPI provides a product that meets the agency's specific needs in a timely manner and at a fair price.

So the adoption of the Scott amendment would mean that FPI decides what the agencies need, not the agencies themselves; and the FPI decides when the agencies need the goods, not the agencies themselves; and FPI decides that the price is fair, not the agencies themselves. And there is not any competition at all when FPI makes all of these decisions. This basically is another stall that rolls back the changes in the bill and leaves the decision on whether to grant a waiver and allow competitive sourcing to the FPI rather than the buying agency.

It is time we get the fox away from this chicken coop because the taxpayers are going to end up much further ahead and the agencies are going to get better goods in a more timely manner without the amendment and with the bill as written.

Mr. Chairman, I urge that the amendment be voted down.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I respect the principled opposition of the gentleman from Virginia (Mr. SCOTT) to this bill. It is in this context we should see his amendment. He argues that he has a better transition, but it is a transition to a goal which he opposes.

So I would ask Members to consider if you are trying to find a path to a certain destination, whose guidance will you select: the people who are trying to get to the destination or the people who think that destination would be a terrible thing?

The gentleman from Wisconsin (Mr. SENSENBRENNER) has said this accurately, that this is a second chance to vote "yes" or "no" on the bill. I want to reiterate I will be strongly supportive of efforts to continue giving prisoners the work. There are specific sections in this bill that we are bring-

ing forward that talk about donation programs, that say that we want the inmates to be making things for daycare centers, for homeless shelters, for drug rehab clinics. All of us know in every one of our districts there are very worthy facilities that provide services to people in great need, and they do not have enough of a budget to buy what they need. Let us give them the furniture. Let us give them the clothing. Let us give them the drapery. Let us give them the other things that can be made.

The issue is not whether or not the prisoners should be engaged in rehabilitative work; it is whether rehabilitative work should be financed by the whole society or whether it should be financed by competing with the most economically vulnerable sectors of our society. The bill says the former; the opposition to the bill and the amendment essentially say the latter.

The amendment says a while longer, a vote against the bill says never, but they came to the same result.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MALONEY:

Page 22, insert after line 3 the following:

(i) PROCEDURAL REQUIREMENTS FOR CIVILIAN AGENCIES RELATING TO PRODUCTS OF FEDERAL PRISON INDUSTRIES.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 318. PRODUCTS OF FEDERAL PRISON INDUSTRIES: PROCEDURAL REQUIREMENTS.

"(a) MARKET RESEARCH.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, United States Code, the head of an executive agency shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery.

"(b) COMPETITION REQUIREMENT.—If the head of the executive agency determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery, the agency head shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the agency head shall consider a timely offer from Federal Prison Industries.

"(c) IMPLEMENTATION BY HEAD OF EXECUTIVE AGENCY.—The head of an executive agency shall ensure that—

"(1) the executive agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the agency determines that the product or service is comparable to products or services available from the private sector that best

meet the agency's needs in terms of price, quality, and time of delivery; and

"(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the executive agency.

"(d) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet an executive agency's needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

"(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A contractor or potential contractor of an executive agency may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a contract of the executive agency by any means, including means such as—

"(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

"(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

"(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

"(2) In this subsection, the term "contractor", with respect to a contract, includes a subcontractor at any tier under the contract.

"(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The head of an executive agency may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

"(1) any data that is classified;

"(2) any geographic data regarding the location of—

"(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

"(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

"(C) other utilities; or

"(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

"(g) DEFINITIONS.—In this section:

"(1) The term 'competitive procedures' has the meaning given such term in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)).

"(2) The term 'market research' means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

"(A) contacting knowledgeable individuals in government and industry;

"(B) interactive communication among industry, acquisition personnel, and customers; and

"(C) interchange meetings or pre-solicitation conferences with potential offerors."

Page 17, line 15, strike the period and insert the following: "or in accordance with section 2410n of title 10, United States Code, or section 318 of title III of the Federal Property and Administrative Services Act of 1949 (as added by subsection (i)).".

Mrs. MALONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

PARLIAMENTARY INQUIRY

Mr. SCOTT of Virginia. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SCOTT of Virginia. Mr. Chairman, I am not sure which section this amendment is in. I would hope that it would not prejudice amendments in previous sections.

The CHAIRMAN pro tempore. Section 4 will remain open to further amendment after the consideration of this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. MALONEY. Mr. Chairman, the amendment extends to the new contracting officer of the various civilian agencies, including the new Department of Homeland Security, the same powers available to contracting officers of the Department of Defense in their dealings with the Federal Prison Industries. It will better enable them to get the best value for the taxpaying dollars being expended with FPI.

Under FPI's 1934 authorizing statute, FPI is a mandatory source to all Federal agencies. Federal contracting officers must purchase products offered by FPI unless FPI authorizes, through the granting of a so-called waiver, the solicitation of competitive offers for the private sector.

In making the unilateral determination to grant a waiver, FPI, rather than the buying agency, determines whether FPI's offered product and delivery schedule meet the mission's needs of the buying agency. FPI, rather than the buying agency, determines the reasonableness of FPI's offered price.

While comprehensive FPI reform was being advanced in both Chambers, several Members of the other body devised a means to provide some modest interim relief to DOD's procurement professionals by including interim relief in the National Defense Authorization Act for fiscal year 2002. That provision added a new section 2410(n) to title 10 of the U.S. Code which governs DOD.

My amendment adds a new section to title III of the Federal Property and Administrative Services Act of 1949, which governs procurement by the civilian agencies. This new provision mirrors exactly the test of section 2410(n) in title 10.

Specifically, my amendment will make explicit that a contracting officer is fully empowered to determine if a product offered by FPI is comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and

time of delivery; provide a contracting officer access to the full range of market research tools to make the required determination and full discretion on how to use such tools; empower contracting officers to ensure that FPI performs its contractual obligations to the same extent as any other contractor; and prohibit inmate workers from having access to classified data, critical infrastructure data, and personal or financial data under any service contract.

The text of the amendment being offered today was offered by the gentleman from Indiana (Mr. SOUDER) and accepted by the Committee on Government Reform during its consideration of H.R. 1837, the Services Acquisition Reform Act, earlier this year.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, let me say that I support her amendment because what her amendment does is it applies the DOD contracting rights that were passed in last year's defense authorization bill to procurement by the other Federal agencies that would be covered by this bill. So there is a uniform standard of agency contracting rights. And we would not have one set of rules for the Defense Department and another set of rules for the rest of the government agencies.

I believe that this amendment is a constructive addition, and I am pleased to support it.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY. I yield to the gentleman from Massachusetts, the distinguished ranking member.

Mr. FRANK of Massachusetts. Mr. Chairman, we do not have the usual situation here where there are Democratic and Republican managers who might come to an agreement on this one. I would say, though, that as one of the Democrats who has been supportive of this bill, I certainly would concur with what the gentleman from Wisconsin (Mr. SENSENBRENNER) has said and would also urge its acceptance.

Mrs. MALONEY. Mr. Chairman, I would like to add that the U.S. Chamber of Commerce and the AFL/CIO join my distinguished colleagues on both sides of the aisle in support of this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The amendment was agreed to.

□ 1400

AMENDMENT OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GREEN of Wisconsin:

Page 21, strike line 21 and all that follows through page 22, line 3, and insert the following:

(3) If the Attorney General finds a significant risk of adverse effects on safe prison management, prison rehabilitation opportunities, or public or prison safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made, and such finding shall serve to postpone for one year any further percentage limitation under subsection (e)(1).

(4) Any percentage limitation postponed under paragraph (3) shall take effect in the fiscal year immediately following the fiscal year for which it is postponed, if not later than 60 days before the first day of such following fiscal year the Attorney General makes a determination under paragraph (2)—

(A) that such limitation is not likely to result in a substantial reduction in inmate industrial employment; or

(B) that any such reduction will not present a significant risk of adverse effects on safe prison operation or public safety.

Mr. GREEN from Wisconsin (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GREEN of Wisconsin. Mr. Chairman, the proponents of this legislation, H.R. 1829, said earlier that they share our vision, they share the concerns that many of us have. The proponents of this bill have claimed that this legislation, H.R. 1829 will actually strengthen FPI, Federal Prison Industries. Unfortunately, close observers of the system, like the American Federation of Government Employees and the Fraternal Order of Police, disagree. Who shall we believe?

This amendment that I offer right now offers us a safe way for us to provide and to find out the answer and determine who it is that we should believe.

Now, earlier it was said that my study amendment was an amendment to kill, an amendment to delay. Well, this legislation is very different. It allows us to proceed while also creating a mechanism to make sure that we do not do the damage that some have said, some fear will be done. It provides a safety valve in case this bill does not work out as its proponents claim.

It would require the Attorney General to make a determination each year about whether phasing out of fiscal procurement preference has resulted in a reduction of the number of inmates who are provided employment. If the numbers are substantially lower, if the numbers are substantially lower, then the Attorney General will be required to determine whether or not this reduction poses a significant threat to prison operations or general public safety. If the Attorney General determines that this has occurred, if there is a threat to public safety, then he may postpone the phasing out for a year. It could begin again once the Attorney General has determined that it is safe to proceed. The current bill provides no mechanism for reviewing the effect of the preference phaseout.

Let us understand the effect of this amendment very carefully and why it is so important. If proponents of the bill are correct in assuming that their reforms will, in fact, make FPI more competitive rather than putting it out of business as I would suggest, then the safety valve provisions in this amendment will never come into play. It will be as though this amendment was never adopted, never considered. But if the proponents are wrong, and they just might be wrong, and if our highest law enforcement official determines, as I believe, that this would present a significant risk to prison safety or public safety, then this safety valve will be critically needed. It will be terribly important. It will save lives. It will save the working conditions in prisons. It will make prison operations safer.

Now, again, in the past with my previous amendment, the study amendment, it was argued that I was trying to kill H.R. 1829, to kill this legislation. I would argue that those who oppose this amendment, given that this amendment does not delay the phase-out of the mandatory preference, I would argue that any who oppose this amendment really do want to kill FPI.

Again, if their claims are accurate, if their assumptions are correct, then this amendment will have no effect. But if they are wrong, as many of us fear, we will at least have some mechanism, some small way to stop this damage from occurring. I ask support for this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Unfortunately, Mr. Chairman, my colleague from Wisconsin wants to stall FPI facing the music in being reformed by this amendment. And he cloaks his argument by saying there has to be a safety valve in case the reduction in work that FPI may or may not get as a result of having to compete, ends up causing a problem in prison safety.

The provision of the bill that the gentleman from Wisconsin proposes to strike does provide a safety valve, but it provides a safety valve where the ultimate determination is made by the Congress. In other words, we have to make a decision on whether the determination is a correct one or an incorrect one.

Let me outline what this amendment proposes to strike. It says, a finding by the Attorney General with respect to public safety within 60 days after the end of every fiscal year, which means by December 1, the Attorney General shall make a finding with respect to public safety and whether the reduction in the percentage of mandatory sourcing will have a likely effect on public safety during the next fiscal year.

The Attorney General's findings shall include a determination on whether such determination has resulted or is likely to result in a substantial reduction in inmate industrial employment

and whether such reductions, if any, present a significant risk of adverse effects on safe prison operation or public safety.

If he finds that, he shall advise the Congress. And if he advises the Congress pursuant to this section, the Attorney General shall make recommendations for additional authorizations of appropriations to provide additional alternative inmate rehabilitative opportunities and additional correctional staffing as may be appropriate.

Now, what this means is that the Attorney General gets \$75 million authorized every year to provide for additional rehabilitation and industrial employment within the prison. If the \$75 million dollars is not enough or is not used effectively enough, then the AG has got to come back to Congress and say, okay, I either need more money, I need a change in the law, or I need more people to provide for more prison guards. And then the Congress can make this determination as a part of the ordinary authorization appropriations process.

The gentleman from Wisconsin's (Mr. GREEN) amendment is kind of a guillotine, the death penalty, if you will, because it says that if the AG finds a significant risk of adverse effects on either safer prison management or public safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made and such finding shall, shall, not may, postpone for 1 year any further percentage limitation under the subsection e(1) and the transitional title which is under debate now.

Now, there are over 70 prisons that have got Federal prison industries programs. And the way the gentleman from Wisconsin's (Mr. GREEN) amendment is drafted is that if the Attorney General finds that there is a public safety problem in just one of those prisons, then FPI is able to continue doing business as usual for another year.

That is a stall. That is why this amendment should be rejected, and I hope it is rejected overwhelmingly.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I was listening to my good friend, the gentleman from Wisconsin (Mr. SENSENBRENNER) and looking to the section in which he was referring and as well to which this amendment is referring. I join the gentleman from Wisconsin (Mr. GREEN) as a cosponsor of this amendment, and I do so because I think that what we are doing today is a work in progress and that we are responding to a ground yet explored.

None of us will and can determine two things, Mr. Chairman. We can not determine that if this bill is passed whether we will soon open up the windows of Heaven, and I do not make light, in helping small businesses. And that is our intent, of course. We want

to be generous and recognize that small businesses should not be disadvantaged as competitors because I believe that small businesses are the backbone of America and they create jobs.

At the same time, we do not want to deconstruct or undermine our prison structure and the goals of prisons, which are to punish and, I believe, to rehabilitate. And this amendment that we are offering together is a triggering amendment. It allows the Attorney General to proceed with a study that deals with the issues of public rehabilitation, management, that is key, Mr. Chairman, public or prison safety.

We know that there are documented studies of years past that suggest that we have problems when there is an idleness in our prisons. We have gone past that to a certain extent. We went through a crisis where no one wanted television sets or they did not want physical fitness rooms, and we have gone through that, and we do not have much of that.

So what do we have for the inmates? We have work. We try to have study, and we try to have factors that will rehabilitate their lives. This amendment speaks to a delaying process, not a process that eliminates, and it gives us a sense of information that will be instructive.

One of the more, I think, enlightened aspects of the amendment is that if a limitation is proposed under paragraph 3, and it takes effect in the fiscal year immediately following the fiscal year for which it is postponed, is not less than 60 days before the before the first day of such following fiscal year, the Attorney General makes a determination. And so it gives another action item, that such limitation is not likely to result in a substantial reduction of inmate industrial employment, or that any such reduction would not present a significant risk of adverse effect on safe prison operation or public safety, we go forward.

So it gives limitations. It is not an elimination. It is a limitation.

I would like to pose a question to the gentleman from Wisconsin (Mr. GREEN) because my understanding of what we intended, and as the gentleman offered the amendment and as I am very pleased to join the gentleman, what the gentleman intended, the gentleman intended to be thoughtful, to give a moment of study, to then allow to come back again and to state that there is no injury; and if there is no injury, we can go forward.

Am I understanding what our thought processes were?

Mr. GREEN of Wisconsin. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. GREEN of Wisconsin. Yes, the reason this amendment is drafted as it is, is we are, I think as the gentlewoman said very eloquently, treading into new territory here.

What I want to do is make sure that we have an opportunity, if just by that

small chance the proponents are wrong, as you and I believe that they may well be, that we have a mechanism to stop irreparable harm from being done.

Ms. JACKSON-LEE of Texas. Well, I thank the gentleman for his thoughtfulness. I might just ask one quick question. Does the gentleman think we are in a crisis point where thoughtfulness and study is not appropriate? When I say crisis, we are all supporters of small businesses, but we are working with a collective body of opportunity for small businesses which we both support. Are we at a crisis where we just absolutely are collapsing and we can not study this thoughtfully?

Mr. GREEN of Wisconsin. I think there is no reason why we can not study this thoughtfully. We can look at ways of reforming the FBI to make sure it works better to protect all of the interest. I want to make sure, as the gentlewoman does, that we have that time.

Ms. JACKSON-LEE of Texas. Let me just say, Mr. Chairman, I believe that we are working to be, if you will, constructive. And this is only an amendment that provides guidance, that allows us to be thoughtful. And if there is a problem, if this is devastating to the prison industries, we are allowed to cease and desist temporarily. If we find that we have overcome the problems, the Attorney General could move forward. I would ask my colleagues to move forward on this very constructive amendment.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. What this amendment does is it seeks to reverse an action that was taken by the committee during its markup of the bill in the 107th Congress, and that was on a Roll Call vote this amendment was defeated 18 to 9.

The bill already requires the Attorney General to closely monitor the effects of the 5-year transition period in which FPI adapts to selling Federal agencies on a competitive basis rather than the noncompetitive process that it currently has under mandatory source.

Annually, during the 5-year transition period, the Attorney General is required to determine whether there has been a reduction in inmate industrial employment; and if such reduction presents "a significant risk of adverse effects on safe prison operation or public safety," report to the committee any "adverse effects on either safe prison management or public safety," and to make recommendations for corrective action.

Under the bill the committee and the Congress would determine the appropriate remedial actions to be taken, if any. Remember, this is a 5-year gradual phaseout.

Under the Green amendment, the Attorney General would be unilaterally empowered to suspend FPI's statu-

torily specified transition to competition simply on the basis of his own findings.

As was reflected in the debate during the 107th Congress, the committee is fully capable of evaluating the Attorney General's findings and recommendations and of taking appropriate remedial action as needed.

□ 1415

Modification of statutorily specified timetables lies with the legislative branch and should not be subject to unilateral change by an individual officer of the executive branch.

In keeping with the provision's intent for the Attorney General to make and report to the Congress findings that are very broadly drafted, "has resulted or is likely to result, substantial reduction in inmate industrial employment and significant risk of adverse effects."

They are insufficiently clear bases on which to authorize the Attorney General to unilaterally suspend the implementation of this statute. I ask my colleagues to oppose this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. It allows the Attorney General to protect public safety. If the Attorney General concludes that, in order to protect public safety, he needs the continuation of the prison industries program, he ought to be able to respond to that crisis in a way that responds to the crisis and not just send a letter to Congress to hope something might get done while the crisis is going on.

The warden apparently can do this now in the bill, but that is fairly unrealistic because the warden would have to report to the Attorney General that he cannot do his job in order to trigger that element of the bill. That is obviously not a realistic thing to think that a warden would volunteer to the fact that he cannot do his job as a condition to protect public safety.

I would hope that this safety valve amendment would be adopted so that our public safety can, in fact, be protected.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Wisconsin (Mr. GREEN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. GREEN of Wisconsin. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) will be postponed.

Are there further amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. AUTHORITY TO PERFORM AS A FEDERAL SUBCONTRACTOR.

(a) *IN GENERAL.*—Federal Prison Industries is authorized to enter into a contract with a Federal contractor (or a subcontractor of such contractor at any tier) to produce products as a subcontractor or supplier in the performance of a Federal procurement contract. The use of Federal Prison Industries as a subcontractor or supplier shall be a wholly voluntary business decision by the Federal prime contractor or subcontractor, subject to any prior approval of subcontractors or suppliers by the contracting officer which may be imposed by the Federal Acquisition Regulation or by the contract.

(b) *COMMERCIAL SALES PROHIBITED.*—The authority provided by subsection (a) shall not result, either directly or indirectly, in the sale in the commercial market of a product or service resulting from the labor of Federal inmate workers in violation of section 1761(a) of title 18, United States Code. A Federal contractor (or subcontractor at any tier) using Federal Prison Industries as a subcontractor or supplier in furnishing a commercial product pursuant to a Federal contract shall implement appropriate management procedures to prevent introducing an inmate-produced product into the commercial market.

(c) *PROHIBITIONS ON MANDATING SUBCONTRACTING WITH FEDERAL PRISON INDUSTRIES.*—Except as authorized under the Federal Acquisition Regulation, the use of Federal Prison Industries as a subcontractor or supplier of products or provider of services shall not be imposed upon prospective or actual Federal prime contractors or a subcontractors at any tier by means of—

(1) a contract solicitation provision requiring a contractor to offer to make use of Federal Prison Industries, its products or services;

(2) specifications requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract;

(3) any contract modification directing the use of Federal Prison Industries, its products or services; or

(4) any other means.

The CHAIRMAN pro tempore. Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. INMATE WAGES AND DEDUCTIONS.

Section 4122(b) of title 18, United States Code (as amended by section 3 of this Act), is further amended by adding after paragraph (10) a new paragraph (11) as follows:

“(11)(A) The Board of Directors of Federal Prison Industries shall prescribe the rates of hourly wages to be paid inmates performing work for or through Federal Prison Industries. The Director of the Federal Bureau of Prisons shall prescribe the rates of hourly wages for other work assignments within the various Federal correctional institutions.

“(B) The various inmate wage rates shall be reviewed and considered for increase on not less than a biannual basis.

“(C) Wages earned by an inmate worker shall be paid in the name of the inmate. Deductions, aggregating to not more than 80 percent of gross wages, shall be taken from the wages due for—

“(i) applicable taxes (Federal, State, and local);

“(ii) payment of fines and restitution pursuant to court order;

“(iii) payment of additional restitution for victims of the inmate’s crimes (at a rate not less than 10 percent of gross wages);

“(iv) allocations for support of the inmate’s family pursuant to statute, court order, or agreement with the inmate;

“(v) allocations to a fund in the inmate’s name to facilitate such inmate’s assimilation back into society, payable at the conclusion of incarceration; and

“(vi) such other deductions as may be specified by the Director of the Bureau of Prisons.

“(D) Each inmate worker working for Federal Prison Industries shall indicate in writing that such person—

“(i) is participating voluntarily; and

“(ii) understands and agrees to the wages to be paid and deductions to be taken from such wages.”

The CHAIRMAN pro tempore. Are there any amendments to section 6?

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS:

Page 24, line 7, insert after the period the following: “In the case of an inmate whose term of imprisonment is to expire in not more than 2 years, wages shall be earned at an hourly rate of not less than \$2.50, but paid at the same rate and in the same manner as to any other inmate, and any amount earned but not paid shall be held in trust and paid only upon the actual expiration of the term of imprisonment.”

Page 24, after line 10, insert the following new subparagraph (and redesignate succeeding subparagraphs accordingly):

“(C) The Board of Directors of Federal Prison Industries shall—

“(i) not later than September 30, 2004, increase the maximum wage rate for inmates performing work for or through Federal Prison Industries to an amount equal to 50 percent of the minimum wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

“(ii) not later than September 30, 2009, increase such maximum wage rate to an amount equal to such minimum wage; and

“(iii) request the Secretary of Labor to establish, not later than October 1, 2004, an ‘inmate training wage’ pursuant to that Act.

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Ms. WATERS. Mr. Chairman, I have sat here and listened to this debate today on this very important legislation, H.R. 1829, and it is clear to me listening to the very thoughtful debate that has been held on this floor today that people care an awful lot, both about small business and about opportunities for inmates in our prison system to be able to work and earn money that can be helpful to them upon their release.

It is also clear to me that people are torn about the way that this bill has been presented. They want to make sure that they protect small businesses and not have them disadvantaged because we have our Federal Prison Industries able to produce goods without having to compete in the open market, and we really do not know how to fix this. We really do not have all of the answers.

We have people that are attempting all kinds of amendments. Some of the amendments are to study this, to slow it down and perhaps give us another opportunity to take a look at it. Some

of the other amendments are a bit clearer than that, simply trying to make sure that we do not expand the opportunity for the Federal Prison Industries to expand and to continue to operate perhaps in the way that it is doing.

We heard some very interesting debate about NAFTA and about the exportation of jobs to Third World countries for cheap labor and some pointed references to China; and I was struck by the references that were made to labor that has been done in China by prisoners in China, and could not help but think if, in fact, we limit the opportunities for Federal Prison Industries to operate as it is doing, whether or not we are going to find small businesses who would get this work and then export it to Third World countries for cheap labor, and we find that prisoners in other countries are doing the kind of work that we are prohibiting our prisoners in this country from doing.

All of these questions certainly, I think, are on our minds. However, this is what I have attempted to do. I have attempted to find a way to recognize that prisoners are being released and that when they are released, if they have no money, if they have no resources, they are more likely to find their way back into the system. Recidivism is a real problem.

I would like to see those prisoners that are being released have at least enough money to rent a place to live, to have some food, maybe to have some transportation, to be able to be supported by their earnings until they can find a job. I do this by allowing the last 2 years of their wages to be increased to \$2.50 per hour and then to be held in a special fund; and while they are working, they get no more than any other prisoner would get working in this industry, but the additional dollars would be available to them, held in this fund so that when they are released, they will have an opportunity to have money to do those things that I have alluded to.

I think my chairman, the gentleman from Wisconsin (Chairman SENSENBRENNER), thought there may be some conflict between my amendment and the amendment by my colleague from California. I do not think so, but this amendment now incorporates my thought about the \$2.50 and the thoughts of my colleague from the State of California about giving the authority to the board of directors to increase the wages if they desire to do so. I suppose before they can do it they at least need to be told that if they desire to increase wages up to the minimum they can do that. So that is included in this bill, and I am sure that she will better explain that and that authority that has been given to them.

So these two ideas are combined here, and the idea simply is \$2.50, an opportunity to have a special fund, inmates able to make more money so

that when they are released, they can have money for food, clothing, job, transportation, and of course, the other idea of authorization to the board of directors so that they could, over a period of time, increase the pay up to the minimum wage if they so desire.

That is the essence of my amendment. I would ask an "aye" vote on the Waters amendment number 62.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that this amendment is a good one for a number of reasons, but I just would like to make it very clear what the amendment does.

First, it requires that during the last 2 years of incarceration the inmate would be paid not less than \$2.50 an hour; and, secondly, it would have a cap on how much inmates could be paid regardless of whether they were within 2 years of release or not within 2 years of release to 50 percent of the minimum wage by September of 2004 and the minimum wage by September 2009.

Additionally, the amendment would save the funds for a prisoner in trust which would be paid to them upon their release, which would mean that when the prisoners are released, they would have some gate money in their pocket to be able to begin their lives anew and hopefully lead a crime-free rest of their lives.

Now, with these two provisions this amendment is a very good one because it addresses two things. First of all, it helps level the playing field in terms of wages paid to FPI employees who are inmates with those of private sector employees who are making goods that are competing with the Federal Prison Industries. Secondly, it does give the prisoners an amount of money that has been held in trust for them so that they do not walk out of the prison with very little money in their pocket and perhaps are given a greater temptation to commit a crime in order to be able to put more money in their pocket to live.

So I think that this is really a win-win situation. I would hope that the committee would approve this amendment because I do believe it deals with some of the concerns in this bill that are legitimate and which have been expressed by people who have some doubts over how this bill has been put together.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to offer an amendment that will join with the congresswoman from California, along with the gentleman from Illinois (Mr. DAVIS) and the gentleman from Michigan (Mr. HOEKSTRA), and offering this amendment would direct the board of directors of Federal Prison Industries to increase its maximum rate of pay to inmates participating in its programs.

Specifically, our amendment would require the FPI board to increase the

maximum wage that an inmate participating in its programs could receive, half the current Federal minimum wage by September 30, 2004. Our amendment also requires that the FPI board would increase the maximum wage rate for inmates in the program to a full Federal minimum wage by September 30, 2009.

Mr. Chairman, this amendment was offered for two very important reasons. First and foremost, individuals who are working in any type of environment deserve a fair and decent wage. Currently, inmates participating in the Federal Prison Industries program earn anywhere from 25 cents per hour to just over \$1 per hour. So, Mr. Chairman, I believe it is unfair to ask any person, including those who are incarcerated, to work for wages that are abysmally low. Raising inmate wages, I believe, will give these individuals a desperately needed boost to their self-esteem and confidence as they seek to rehabilitate themselves while they finish their sentences and return to society as contributing members.

Raising the hourly wages of these inmates has additional benefits. As an inmate earns more, increased deductions from their wages can be used to pay applicable State, local and Federal taxes, fines and restitution pursuant to court costs, and contribute to a fund in the inmate's name to help them assimilate back into society once the inmate is released.

Secondly, the Committee on Small Business, Subcommittee on Tax, Finance and Exports and the Subcommittee on Workforce, Empowerment, and Government Programs held a joint hearing October 1, 2003, to hear firsthand how FPI maintains a competitive advantage in the Federal contracting market and how FPI and small businesses can compete on an even playing field.

I do feel that these amendments joined together will be a win-win for those who we are trying to help in rehabilitation and to go back into society ready for work and for assimilating into that society.

Mr. Chairman, I ask that all Members support the amendment.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

I thank my colleagues for working on this amendment and allowing me to be a cosponsor. They did all the work. They worked out the differences to put their two amendments together in a single amendment; and, again, I think it is an amendment that improves the overall quality of the final bill.

So I rise in support of the amendment. I thank my colleagues for the spirit in which we have worked together to put this amendment together and to put the whole bill together.

□ 1430

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The agreement was agreed to.

Are there further amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. CLARIFYING AMENDMENT RELATING TO SERVICES.

(a) *IN GENERAL.*—Section 1761 of title 18, United States Code, is amended in subsection (a), by striking "any goods, wares, or merchandise manufactured, produced, or mined" and inserting "products manufactured, services furnished, or minerals mined".

(b) *COMPLETION OF EXISTING AGREEMENTS.*—Any prisoner work program operated by a prison or jail of a State or local jurisdiction of a State which is providing services for the commercial market through inmate labor on October 1, 2002, may continue to provide such commercial services until—

(1) the expiration date specified in the contract or other agreement with a commercial partner on October 1, 2002, or

(2) until September 30, 2005, if the prison work program is directly furnishing the services to the commercial market.

(c) *APPROVAL REQUIRED FOR LONG-TERM OPERATION.*—A prison work program operated by a correctional institution operated by a State or local jurisdiction of a State may continue to provide inmate labor to furnish services for sale in the commercial market after the dates specified in subsection (b) if such program has been certified pursuant to section 1761(c)(1) of title 18, United States Code, and is in compliance with the requirements of such subsection and its implementing regulations.

AMENDMENT NO. 5 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SCOTT of Virginia:

Page 25, strike section 7 (line 11 and all that follows through page 26, line 12).

Mr. SCOTT of Virginia. Mr. Chairman, section 7 limits the ability of FPI and State Prison Industries programs to do services and reflects the reality that promoting competition is not what proponents of FPI want. Presently, there is no mandatory source on services as opposed to products, and so straight competition is the only way that FPI can get a service contract. The bill will limit the ability of FPI to get service contracts and actually eliminate the ability of State prison service programs in State prisons.

The mandatory source in products is being eliminated in the bill. Restricting FPI's ability to continue to perform service contracts as it does now with no particular replacement will only serve to further replace inmate work opportunities. There appears to be no justification for prohibiting States from continuing their service contracts in a bill designed to reform the Federal Prison Industry program.

I am told by Delco Remy, an international company which contracts with State and Federal inmates to break down auto parts for reusable materials to produce new auto parts, I have been told by that company that

600 law-abiding Virginians, along with 300 State and Federal inmates, will lose their jobs as a direct result of this bill, and about the same number of law-abiding citizens and State and Federal inmates in South Carolina will lose their jobs. Ironically, the likelihood is that the jobs will not go to other law-abiding citizens in the United States, but will go to Delco Remy plants outside of the United States.

Other States have service contract programs as well, so it is likely that thousands of law-abiding citizens, as well as inmates, will lose their jobs as a result of this gratuitous, unrelated provision attacking State programs in a bill designed to restructure the Federal Prison Industry programs.

One of the major problems of the bill is we are taking actions without full knowledge of the consequences. That is why several of us have requested a GAO study of the potential impact of this bill, including the impact of the provision outlawing service contracts. The information will be available in April, and that is why we should wait for that information and in the meantime adopt this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the Scott amendment.

Mr. Chairman, in order to put this amendment in context, it is important that we have a history lesson. When the Federal Prison Industries law was created in 1934, there was a compromise that was struck by President Roosevelt between the advocates and business and labor who objected to Federal Prison Industries that the results of inmate labor, whether it was Federal, State or local, would be prohibited from interstate commerce which meant the commercial market. This statutory prohibition is now codified in 18 United States Code 1761(a). Fifty-five years went by, and the statute was always interpreted to prohibit the commercial sale of the results of inmate labor products as well as services, even though the statute that was passed in 1934 did not explicitly mention services.

In 1998, Federal Prison Industries got a legal interpretation that did not come from the DOJ Office of Legal Counsel as most opinions come from, but in a legal memorandum from a special counsel in the Office of Enforcement Operations in the criminal division of the Department of Justice which supervises both FPI and the Bureau of Prisons. The new interpretation provided that FPI and the prison industries of the States and their local governments could sell inmate-furnished services, either directly or in partnership with the private sector, without restrictions; and those restrictions included restrictions against the displacement of noninmate workers or the payment of wages comparable to wages being paid outside the prison to noninmate workers of private firms that provide the same type of services.

With this new interpretation that came about as a result of a Department

of Justice learned legal opinion in 1998, subminimum-wage prison inmates could compete directly in the services market, but not in the goods market, against people on the outside who have to receive minimum wage and also have to pay taxes on their wages.

The business community raised very strong objections in 1998 to this legal interpretation, and the Subcommittee on Oversight and Investigation of the Committee on Education and the Workforce held a hearing on this issue on September 20, 2000. What section 7 does is to make it explicit that the prohibitions that have been in the law since 1934 against goods entering the commercial market also covers services.

This, I guess, brings the law up-to-date as our economy has gradually evolved from a manufacturing and goods-oriented economy to a service-oriented economy.

The amendment of the gentleman from Virginia strikes section 7, and if his amendment is adopted, that means that Federal Prison Industries, as well as State and local prison industries organizations, can directly compete in the commercial market in the services sector of the economy.

When the compromise was struck during the Roosevelt administration, that door was supposedly slammed shut. This will make sure that the door is slammed shut so that the playing field is equal and FPI and State and local inmates cannot compete in the services market for subminimum wage. I hope that the amendment is defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 7? If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. CONFORMING AMENDMENT.

Section 4122(a) of title 18, United States Code, is amended by striking "production of commodities" and inserting "production of products or furnishing of services".

The CHAIRMAN pro tempore. Are there any amendments to section 8?

If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. RULES OF CONSTRUCTION RELATING TO CHAPTER 307.

Chapter 307 of title 18, United States Code, is further amended by adding the following:

"§4130. Construction of provisions

"Nothing in this chapter shall be construed—
"(1) to establish an entitlement of any inmate to—

"(A) employment in a Federal Prison Industries facility; or

"(B) any particular wage, compensation, or benefit on demand, except as otherwise specifically provided by law or regulation;

"(2) to establish that inmates are employees for the purposes of any law or program; or

"(3) to establish any cause of action by or on behalf of any inmate against the United States or any officer, employee, or contractor thereof."

The CHAIRMAN pro tempore. Are there any amendments to section 9?

If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. PROVIDING ADDITIONAL REHABILITATIVE OPPORTUNITIES FOR INMATES.

(a) **ADDITIONAL EDUCATIONAL, TRAINING, AND RELEASE-PREPARATION OPPORTUNITIES.**—

(1) **PROGRAM ESTABLISHED.**—There is hereby established the Enhanced In-Prison Educational and Vocational Assessment and Training Program within the Federal Bureau of Prisons.

(2) **COMPREHENSIVE PROGRAM.**—In addition to such other components as the Director of the Bureau of Prisons deems appropriate to reduce inmate idleness and better prepare inmates for a successful reentry into the community upon release, the program shall provide—

(A) in-prison assessments of inmates' needs and aptitudes;

(B) a full range of educational opportunities; (C) vocational training and apprenticeships; and

(D) comprehensive release-readiness preparation.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of carrying out the program established by paragraph (1), \$75,000,000 is authorized for each fiscal year after fiscal year 2003, to remain available until expended. Funds shall be allocated from the gross profits within the Federal Prison Industries Fund, and, to the extent such amounts are inadequate, from the General Treasury.

(4) **SCHEDULE FOR IMPLEMENTATION.**—All components of the program shall be established—

(A) in at least 25 percent of all Federal prisons not later than 2 years after the date of the enactment of this Act;

(B) in at least 50 percent of all Federal prisons not later than 4 years after such date of enactment;

(C) in at least 75 percent of all Federal prisons not later than 6 years after such date of enactment; and

(D) in all Federal prisons not later than 8 years after such date of enactment.

(b) **INMATE WORK OPPORTUNITIES IN SUPPORT OF NOT-FOR-PROFIT ENTITIES.**—

(1) **PROPOSALS FOR DONATION PROGRAMS.**—The Chief Operating Officer of Federal Prison Industries shall develop and present to the Board of Directors of Federal Prison Industries proposals to have Federal Prison Industries donate products and services to eligible entities that provide goods or services to low-income individuals who would likely otherwise have difficulty purchasing such products or services in the commercial market.

(2) **SCHEDULE FOR SUBMISSION AND CONSIDERATION OF DONATION PROGRAMS.**—

(A) **INITIAL PROPOSALS.**—The Chief Operating Officer shall submit the initial group of proposals for programs of the type described in paragraph (1) within 180 days after the date of the enactment of this Act. The Board of Directors of Federal Prison Industries shall consider such proposals from the Chief Operating Officer not later than the date that is 270 days after the date of the enactment of this Act.

(B) **ANNUAL OPERATING PLAN.**—The Board of Directors of Federal Prison Industries shall consider proposals by the Chief Operating Officer for programs of the type described in paragraph (1) as part of the annual operating plan for Federal Prison Industries.

(C) **OTHER PROPOSALS.**—In addition to proposals submitted by the Chief Operating Officer, the Board of Directors may, from time to time, consider proposals presented by prospective eligible entities.

(3) **DEFINITION OF ELIGIBLE ENTITIES.**—For the purposes of this subsection, the term "eligible entity" means an entity—

(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of

1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in a proposal of the type described in paragraph (1), or

(B) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$7,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise carrying out programs of the type described in paragraph (1).

(c) MAXIMIZING INMATE REHABILITATIVE OPPORTUNITIES THROUGH COGNITIVE ABILITIES ASSESSMENTS.—

(1) DEMONSTRATION PROGRAM AUTHORIZED.—

(A) IN GENERAL.—There is hereby established within the Federal Bureau of Prisons a program to be known as the “Cognitive Abilities Assessment Demonstration Program”. The purpose of the demonstration program is to determine the effectiveness of a program that assesses the cognitive abilities and perceptual skills of Federal inmates to maximize the benefits of various rehabilitative opportunities designed to prepare each inmate for a successful return to society and reduce recidivism. The demonstration program shall be undertaken by a contractor with a demonstrated record of enabling the behavioral and academic improvement of adults through the use of research-based systems that maximize the development of both the cognitive and perceptual capabilities of a participating individual, including adults in a correctional setting.

(B) SCOPE OF DEMONSTRATION PROGRAM.—The demonstration program shall to the maximum extent practicable, be—

(i) conducted during a period of three consecutive fiscal years, commencing during fiscal year 2004;

(ii) conducted at 12 Federal correctional institutions; and

(iii) offered to 6,000 inmates, who are categorized as minimum security or less, and are within five years of release.

(C) REPORT ON RESULTS OF PROGRAM.—Not later than 60 days after completion of the demonstration program, the Director shall submit to Congress a report on the results of the program. At a minimum, the report shall include an analysis of employment stability, stability of residence, and rates of recidivism among inmates who participated in the program after 18 months of release.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$3,000,000 in each of the three fiscal years after fiscal year 2003, to remain available until expended, for the purposes of conducting the demonstration program authorized by subsection (a).

(d) PRERELEASE EMPLOYMENT ASSISTANCE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons shall, to the maximum extent practicable, afford to inmates opportunities to participate in programs and activities designed to help prepare such inmates to obtain employment upon release.

(2) PRERELEASE EMPLOYMENT PLACEMENT ASSISTANCE.—Such prerelease employment placement assistance required by subsection (a) shall include—

(A) training in the preparation of resumes and job applications;

(B) training in interviewing skills;

(C) training and assistance in job search techniques;

(D) conduct of job fairs; and

(E) such other methods deemed appropriate by the Director.

(3) PRIORITY PARTICIPATION.—Priority in program participation shall be accorded to inmates who are participating in work opportunities afforded by Federal Prison Industries and are within 24 months of release from incarceration.

The CHAIRMAN pro tempore. Are there any amendments to section 10?

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SCOTT of Virginia:

Page 29, insert after line 5 the following new subsection (and redesignate subsequent subsections accordingly):

(b) ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.—

(1) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124 the following new section:

“§ 4124a. Additional inmate work opportunities through public service activities

“(a) IN GENERAL.—Inmates with work assignments within Federal Prison Industries may perform work for an eligible entity pursuant to an agreement between such entity and the Inmate Work Training Administrator in accordance with the requirements of this section.

“(b) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this section, the term ‘eligible entity’ means an entity—

“(1) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in an agreement under this section;

“(2) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code; or

“(3) that is a unit of local government, a school district, or another special purpose district.

“(c) INMATE WORK TRAINING ADMINISTRATOR.—

“(1) The Federal Prison Industries Board of Directors shall designate an entity as the Inmate Work Training Administrator to administer the work-based training program authorized by this section.

“(2) In selecting the Inmate Work Training Administrator, the Board of Directors shall select an entity—

“(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

“(B) that has demonstrated, for a period of not less than 5 years, expertise in the theory and practice of fostering inmate rehabilitation through work-based programs in cooperation with private sector firms.

“(3) With respect to the formation and performance of an agreement authorized by this section, the Director of the Bureau of Prisons and the Chief Operating Officer of Federal Prison Industries shall be responsible only for—

“(A) maintaining appropriate institutional and inmate security; and

“(B) matters relating to the selection and payment of participating inmates.

“(d) PROPOSED AGREEMENTS.—An eligible entity seeking to enter into an agreement pursuant to subsection (a) shall submit a detailed proposal to the Inmate Work Training Administrator. Each such agreement shall specify—

“(1) types of work to be performed;

“(2) the proposed duration of the agreement, specified in terms of a base year and number of option years;

“(3) the number of inmate workers expected to be employed in the specified types

of work during the various phases of the agreement;

“(4) the wage rates proposed to be paid to various classes of inmate workers; and

“(5) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement, if any, for such facilities, services, and personnel.

“(e) REPRESENTATIONS.—

“(1) ELEMOSYNARY WORK ACTIVITIES.—Each proposed agreement shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

“(A) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity in the case of an entity described in paragraph (1) or (2) of subsection (b);

“(B) the work would not be performed but for the availability of the inmate workers;

“(C) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a new product or the furnishing of a service that is to be offered for other than resale or donation by the eligible entity or any affiliate of the such entity.

“(2) PROTECTIONS FOR NON-INMATE WORKERS.—Each proposed agreement shall also be accompanied by a written certification by the chief executive officer of the eligible entity that—

“(A) no non-inmate employee or volunteer of the eligible entity (or any affiliate of the entity) will have his or her job abolished or work hours reduced as a result of the entity being authorized to utilize inmate workers; and

“(B) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

“(f) APPROVAL BY BOARD OF DIRECTORS.—

“(1) IN GENERAL.—Each such proposed agreement shall be presented to the Board of Directors, be subject to the same opportunities for public comment, and be publicly considered and acted upon by the Board in a manner comparable to that required by paragraphs (6) and (7) of section 4122(b).

“(2) MATTERS TO BE CONSIDERED.—In determining whether to approve a proposed agreement, the Board shall—

“(A) give priority to an agreement that provides inmate work opportunities that will provide participating inmates with the best prospects of obtaining employment paying a livable wage upon release;

“(B) give priority to an agreement that provides for maximum reimbursement for inmate wages and for the costs of supplies and equipment needed to perform the types of work to be performed;

“(C) not approve an agreement that will result in the displacement of non-inmate workers or volunteers contrary to the representations required by subsection (e)(2) as determined by the Board or by the Attorney General (pursuant to subsection (i)); and

“(D) not approve an agreement that will result, either directly or indirectly, in the production of a new product or the furnishing of a service for other than resale or donation.

“(g) WAGE RATES AND DEDUCTIONS FROM INMATE WAGES.—

“(1) IN GENERAL.—Inmate workers shall be paid wages for work under the agreement at a basic hourly rate to be negotiated between the eligible entity and Federal Prison Industries and specified in the agreement. The wage rates set by the Director of the Federal Bureau of Prisons to be paid inmates for various institutional work assignments are specifically authorized.

“(2) PAYMENT TO INMATE WORKER AND AUTHORIZED DEDUCTIONS.—Wages shall be paid and deductions taken pursuant to section 4122(b)(11)(C).

“(3) VOLUNTARY PARTICIPATION BY INMATE.—Each inmate worker to be utilized by an eligible entity shall indicate in writing that such person—

“(A) is participating voluntarily; and

“(B) understands and agrees to the wages to be paid and deductions to be taken from such wages.

“(h) ASSIGNMENT TO WORK OPPORTUNITIES.—Assignment of inmates to work under an approved agreement with an eligible entity shall be subject to the Bureau of Prisons Program Statement Number 1040.10 (Non-Discrimination Toward Inmates), as contained in section 551.90 of title 28 of the Code of Federal Regulations (or any successor document).

“(i) ENFORCEMENT OF PROTECTIONS FOR NON-INMATE WORKERS.—

“(1) CONSULTATION WITH SECRETARY OF LABOR.—The Attorney General shall carry out this subsection in consultation with the Secretary of Labor.

“(2) PRIOR TO BOARD CONSIDERATION.—Upon request of any interested person, the Attorney General may promptly verify a certification made pursuant subsection (e)(2) with respect to the displacement of non-inmate workers so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Attorney General and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

“(3) DURING PERFORMANCE.—

“(A) IN GENERAL.—Whenever the Attorney General deems appropriate, upon request or otherwise, the Attorney General may verify whether the actual performance of the agreement is resulting in the displacement of non-inmate workers or the use of inmate workers in a work activity not authorized under the approved agreement.

“(B) SANCTIONS.—Whenever the Attorney General determines that performance of the agreement has resulted in the displacement of non-inmate workers or employment of an inmate worker in an unauthorized work activity, the Attorney General may—

“(i) direct the Inmate Work Training Administrator to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default; and

“(ii) initiate proceedings to impose upon the person furnishing the certification regarding non-displacement of non-inmate workers required by subsection (d)(2)(B) any administrative, civil, and criminal sanctions as may be available.”.

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated \$5,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise undertaking the maximum number of agreements with eligible entities pursuant to section 4124a of title 18, United States Code, as added by paragraph (1).

(3) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by inserting after the item relating to section 4124 the following new item:

“4124a. Additional inmate work opportunities through public service activities.”.

Page 36, insert after line 5 the following (and redesignate subsequent subsections and clerical amendments accordingly):

SEC. 11. ADDITIONAL PILOT AUTHORITIES FOR INMATE WORK OPPORTUNITIES.

(a) IN GENERAL.—Chapter 307 of title 18, United States Code, as amended by section 9, is further amended by adding at the end the following new section:

“§4131. Additional pilot authorities for inmate work opportunities

“(a) PILOT AUTHORITIES.—Federal Prison Industries may contract with private or public sector entities for Federal inmates to produce products or perform services for those entities. Under these pilot authorities, and pursuant to the terms and conditions specified in section 4122, Federal inmates may, under the direct supervision of Federal Prison Industries staff—

“(1) produce products or perform services for commercial companies which have been otherwise produced or performed for the companies by foreign labor outside the United States for at least 3 years before the proposed effective date of the business agreement;

“(2) produce products or perform services for commercial companies which would otherwise be performed for the companies by domestic labor, if available; or

“(3) produce products or perform services for not-for-profit agencies in support of the charitable activities of those agencies.

“(b) LIMITATIONS ON USE OF AUTHORITIES.—(1) Federal Prison Industries is prohibited from directly offering for commercial sale products produced or services furnished by Federal inmates, including through any form of electronic commerce.

“(2) The number of Federal inmates working under the pilot authority provided in subsection (a)(1) shall not exceed—

“(A) 4,000 during fiscal year 2005;

“(B) 8,000 during fiscal year 2006;

“(C) 12,000 during fiscal year 2007;

“(D) 16,000 during fiscal year 2008;

“(E) 20,000 during fiscal year 2009; or

“(F) 25 percent of the work-eligible Federal inmate population in any fiscal year beginning after September 30, 2008.

“(3) The number of Federal inmates working under the pilot authority provided in subsection (a)(3) shall not exceed—

“(A) 2,000 during fiscal year 2005;

“(B) 4,000 during fiscal year 2006;

“(C) 6,000 during fiscal year 2007;

“(D) 8,000 during fiscal year 2008;

“(E) 10,000 during fiscal year 2009; or

“(F) 10 percent of the work eligible Federal inmate population in any fiscal year beginning after September 30, 2009.

“(c) INMATE WAGES.—

“(1) IN GENERAL.—Each Federal inmate worker participating in industrial operations authorized by the Corporation shall be paid at a wage rate prescribed by the Board of Directors. The Director of the Federal Bureau of Prisons shall prescribe the wage rates for other Federal inmate work assignments within the various Federal correctional institutions. The Board shall give priority to approving Federal inmate work opportunities which maximize inmate earnings. Inmate wage rates shall be reviewed by the Board at least biannually.

“(2) WORK PURSUANT TO SUBSECTION (a)(1).—For Federal inmate work performed for commercial companies pursuant to subsection (a)(1), the wage rate paid to Federal inmates must be the Federal Prison Industries wage rate in effect on the date of the enactment of this section or twice the rate paid for work of a similar nature in the foreign locality in which the work would otherwise be performed, whichever is higher.

“(3) WORK PURSUANT TO SUBSECTION (a)(2).—For work performed by Federal inmates pursuant to subsection (a)(2), the wage rate paid to inmates shall be not less than the rate

paid for work of a similar nature in the locality in which the work is to be performed, but in no event less than the minimum wage required pursuant to the Fair Labor Standards Act (29 U.S.C. 201 et seq.). The determination of this wage rate shall be approved by the Secretary of Labor or by the State or local government entity with authority to approve such determinations.

“(d) DEDUCTIONS FROM INMATE WAGES.—Inmate wages paid by commercial companies shall be paid to the Corporation in the name and for the benefit of the Federal inmate. Except as specified in subsection (e), the Corporation may deduct, withhold, and disburse from the gross wages paid to inmates, aggregate amounts of not less than 50 percent and not more than 80 percent of gross wages for—

“(1) applicable taxes (Federal, State, and local);

“(2) payment of fines, special assessments, and any other restitution owed by the inmate worker pursuant to court order;

“(3) payment of additional restitution for victims of the inmate's crimes (at a rate not less than 10 percent of gross wages);

“(4) allocations for support of the inmate's family pursuant to statute, court order, or agreement with the inmate;

“(5) allocations to a fund in the inmate's name to facilitate such inmate's assimilation back into society, payable at the conclusion of incarceration;

“(6) such other deductions as may be specified by the Board of Directors.

“(e) EXCEPTION FOR HIGHER DEDUCTIONS.—The aggregate deduction authorized in subsection (d) may, with the written consent of an inmate, exceed the maximum limitation, if the amounts in excess of such limitation are for the purposes described in paragraphs (4) or (5) of that subsection.

“(f) CONVERSIONS.—Commercial market services authorized by the Federal Prison Industries Board of Directors and being provided by Federal Prison Industries on the date of enactment of this section may be continued until converted to a private sector contract pursuant to the authority in this Act. The Board of Directors of Federal Prison Industries shall ensure these conversions occur at the earliest practicable date.

“(g) PROPOSALS FROM PRIVATE COMPANIES.—Federal Prison Industries may solicit, receive and approve proposals from private companies for Federal inmate work opportunities. Federal Prison Industries shall establish and publish for comment criteria to be used in evaluating and approving such proposals. In developing criteria, priority shall be given to those proposals which offer Federal inmates the highest wages, the most marketable skills, and the greatest prospects for post-release reintegration.

“(h) APPROVAL OF PROPOSALS.—The Board must approve all proposals in advance of their implementation.

“(i) CONTENT OF PROPOSALS.—Any business or eligible not-for-profit entity seeking to contract with Federal Prison Industries for Federal inmate workforce participation shall submit a detailed proposal to the Chief Operating Officer of Federal Prison Industries. Each such proposal shall specify—

“(1) the product or service to be produced or furnished;

“(2) the proposed duration of the business agreement, specified in terms of a base period and number of option period;

“(3) the number of Federal inmate workers expected to be employed during the various phases of the agreement;

“(4) the number of foreign workers, if any, outside the United States currently performing for the proposing entity the work proposed for performance by Federal inmate workers, and the wage rates paid to those workers;

“(5) the wage rates proposed to be paid to various classes of Federal inmate workers, at not less than the rates required by subsection (c); and

“(6) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by the Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement for such facilities, services, and personnel, if any.

“(j) WRITTEN CERTIFICATION FOR PROPOSED COMMERCIAL BUSINESS AGREEMENT.—Each proposed commercial business agreement shall be accompanied by a written certification by the chief executive officer of the business entity proposing the agreement that—

“(1) no noninmate employee of the business (or any affiliate) working within the United States will have their job abolished or their work hours reduced as a direct result of the agreement;

“(2) inmate workers will be paid wages at rates in accordance with subsection (c); and

“(3) any domestic workforce reductions carried out by the business entity affecting employees performing work comparable to the work being performed by inmates pursuant to the agreement shall first apply to inmate workers employed pursuant to the agreement.

“(k) WRITTEN CERTIFICATION FOR PROPOSED AGREEMENT WITH NOT-FOR-PROFIT ENTITY.—Each proposed agreement with an eligible not-for-profit entity shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

“(1) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity;

“(2) the work would not be performed on a compensated basis but for the availability of the inmate workers;

“(3) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a product or the furnishing of a service that is to be offered for commercial sale by the eligible entity or any affiliate of such entity;

“(4) no noninmate employees of the eligible entity (or any affiliate of the entity) will have their job abolished or their work hours reduced as a result of the entity entering into an agreement to utilize inmate workers; and

“(5) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

“(l) PUBLIC NOTICE AND COMMENT.—

“(1) IN GENERAL.—The Board shall make reasonable attempts to provide opportunities for notice and comment to the widest audience of potentially interested parties as practicable. At a minimum, the Board shall—

“(A) give notice of a proposed business agreement on the Corporation's web site and in a publication designed to most effectively provide notice to private businesses and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposed agreement, which notice shall offer to furnish copies of the proposal (excluding any proprietary information) and chief executive certifications and shall solicit comments on same;

“(B) solicit comments on the business proposal from trade associations representing businesses and labor unions representing workers who could reasonably be expected to be affected by approval of the proposal; and

“(C) afford an opportunity, on request, for a representative of an established trade association, labor union, or other representatives of private industry to present comments on

the proposal directly to the Board of Directors.

“(2) COPIES.—The Board of Directors shall be provided copies of all comments received on the proposal.

“(3) REVISED PROPOSAL.—Based on the comments received on the initial business proposal, the business or nonprofit entity or Federal Prison Industries Chief Operating Officer may provide the Board of Directors a revised proposal. If the revised proposal presents new issues or potential effects on the private sector which were not addressed in the original proposal and comments received thereon, the Board shall provide another public notice and comment opportunity pursuant to paragraph (1).

“(4) OPEN MEETING.—The Board of Directors shall consider all inmate work opportunity proposals submitted and take any action with respect to such proposals, during a meeting that is open to the public, unless closed pursuant to section 552(b) of title 5.

“(m) BOARD APPROVAL.—(1) In determining whether to approve a proposed business agreement for Federal inmate work opportunities, the Board shall—

“(A) not approve any agreement that would result in the displacement of noninmate workers contrary to the certifications required in subsections (j) and (k) or pay less than the wages required by subsection (c).

“(B) not approve an agreement which the Board determines contains terms and conditions which would subject domestic noninmate workers to unfair competition;

“(C) request a determination from the International Trade Commission, the Department of Commerce or such other Executive Branch entities as may be appropriate, whenever the Board questions the representations by a commercial company or a not-for-profit entity regarding whether a particular product or service has been produced by foreign labor outside the United States for the commercial company or not-for-profit entity for at least 3 years before the proposed effective date of the business agreement;

“(D) not approve an agreement which would cause Federal Prison Industries sales revenue derived from any specific industry to exceed 50 percent of Federal Prison Industries total revenue.

“(E) not approve any agreement which provides for direct supervision of Federal inmate workers by non-Federal Prison Industries employees; and

“(H) not approve any agreement which would provide for products or services produced by Federal inmates to be sold to agencies of State government without the written consent of the Governor or designee.

“(n) REVIEW AND ENFORCEMENT.—(1) The Attorney General shall carry out this subsection in consultation with the Secretary of Labor.

“(2) Upon request of any interested person, the Attorney General may promptly verify a certification pursuant to subsection (j)(1) with respect to the displacement of noninmate workers or a certification with respect to the wages proposed to be paid Federal inmate workers pursuant to subsection (j)(2) so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Attorney General and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

“(3) Whenever the Attorney General deems appropriate, the Attorney General may verify whether the actual performance of the agreement is resulting in the displacement of noninmate workers and whether the wages being paid the Federal inmate workers meet the standards of subsection (c).

“(4) Whenever the Attorney General determines that performance of the agreement has resulted in the displacement of noninmate workers or the payment of Federal inmate workers at less than the required wage rates, the Attorney General may—

“(A) direct the Chief Operating Officer of the Corporation to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default;

“(B) direct that the Federal inmate workers be retroactively paid the wages that were due; and

“(C) initiate proceedings to impose upon the person furnishing the certifications made pursuant to subsection (j), any administrative, civil, and criminal sanctions as may be available.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

“4131. Additional pilot authorities for inmate work opportunities.”.

Mr. SCOTT of Virginia. Mr. Chairman, the first item of this amendment was developed and agreed to recently with the proponents of the bill. It is a proposal to authorize FPI to develop a specific program for inmates to produce goods and provide services for charitable organizations. Although I fear that the funds authorized to develop the project may not be ever appropriated, if the funds are appropriated, I see it as a way of providing, for some of the inmates, work opportunities to compensate for the jobs lost by the passage of this bill.

So I have included that provision along with other pilot projects that I believe should be examined for their potential to make up for the job loss as well.

Mr. Chairman, the other parts of the amendment are as follows. There is an offshore repatriation, there is a Federal Prison Industry enhancement, and a not-for-profit provision. These provisions are not new to the proponents of the bill. In the last Congress, the supporters of the bill and the opponents of the bill, along with their staffs and along with the staff of FPI, worked to develop a compromise proposal on various parts of the bill restructuring FPI to present to the rest of us.

A compromise proposal was developed and many of the elements agreed to are reflected in the bill before us. These pilot authorities would complete the rest of the compromise proposal that we appeared to agree on last year.

Specifically, on the offshore repatriation provision, FPI would be authorized to produce commercial market items for private companies to sell and distribute which have been produced offshore for at least 3 years, provided inmates are paid at least twice the foreign market wage for producing the product. This is to ensure that the lower wage is not the focus of the pilot, and also provides for protections for any businesses or workers engaged in the production of these products in the United States, including a challenging procedure which would halt production

if any product that a business or worker could show is actually being produced, or has been produced in the United States in the past 3 years.

The other provision is Federal PIE. FPI would be authorized to produce items for the domestic commercial market provided inmates are paid prevailing domestic market wages. This would allow FPI to pilot a program similar to the Federal Prison Industries Enhancement programs, or PIE, already in operation under Federal law for State Prison Industries programs but not for the Federal Prison Industry program. Under this program, FPI would be allowed to pilot the production of products or services for which there is not a domestic labor force available. There are also strong protections against American worker displacements in this pilot. And again, the language is the language developed by representatives of three Members working with FPI staff.

There is a not-for-profit provision. This involves producing goods or services for not-for-profits at a negotiated rate that would not otherwise be paid for by nonprofits or done by noninmate workers for pay.

During the pilot programs this amendment would authorize, there would be extensive input from the International Trade Commission and the Department of Labor. Any activity under them would be reported to the public and any potential affected parties for comment. All actions taken by FPI relative to the projects would be done in public meetings.

We are talking about pilot programs for proposals. If the pilots do not work or create programs, as some have expressed, then we could simply put a stop to them. But if we are going to take away jobs, if we are going to take away the only reliable basis the prison system has had to ensure real work opportunities for prisoners because one-fourth of 1 percent of the Federal procurement expenditures are deemed too much of a market share for a program which has been proven to reduce crime, it would be irresponsible for us to not at least test other ways to give the program some actual continued reliability. I would hope that my colleagues would support the amendment.

Mr. WOLF. Mr. Chairman, I rise in strong support of the Scott amendment.

Mr. Chairman, it could really make all of the difference in the world with regard to this bill. So Members understand what it is, basically these are goods that are no longer made in the United States. For instance, television sets. There are no television sets made in the U.S., or the automatic car locker that we have. Most of them, I have been told, are made in China.

This would say only goods that are made outside of the United States would be repatriated back and could be made in prisons. This would create additional jobs and competition with foreign companies, and also create jobs

for Americans, such as the truck drivers who bring the supplies to the prison, the people who supply the plastics and the wire, whatever the case may be.

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This would create jobs, and it would be almost like the reintroduction of these companies and these industries that have long ago left the United States, to bring them back in. This could be a very, very powerful amendment that would help our economy create jobs, rehabilitate prisons, but create jobs by the people who make the supplies and make whatever. There are none. If you go out today and search, you cannot find a television set that is made in the United States. Maybe the prisoners could make television sets not in competition with any American company, which would really make a tremendous difference.

I strongly urge the support of the Scott amendment which would really make a big difference in rehabilitation, both with regard to our economy and also helping prisoners and helping create jobs here in the United States.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Reluctantly I rise in opposition to the amendment. This is something that my colleagues and I have been working on for a long period of time. The chairman and I were talking as the debate was going on. We do believe that there is some way to work through this process. The amendment as it is structured right now we are not comfortable with, but we want to work with the gentleman from Virginia (Mr. SCOTT), and we want to work with the gentleman from Virginia (Mr. WOLF) on fully exploring this. We believe that there is a reasonable expectation that as this bill moves through the Senate, whatever, we are going to be able to reach some kind of an accommodation that we can all feel good about. Because, again, as the gentleman from Virginia (Mr. SCOTT) and I and the gentleman from Virginia (Mr. WOLF) and I have talked, I really appreciate the tone and the tenor of the debate today, because we do share the same vision, we do share a lot of the same strategies for where we want to go. We do have a lot of things in common in this bill. You can see that by the different people that have been working together and have been participating in the debate.

As the gentleman from Virginia (Mr. WOLF) said, reaching an agreement on this really would make a world of difference if we can reach an accommodation. We would not have some of the disagreements we are having today. I am committed to working with these gentlemen on getting a resolution to this.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. I thank the gentleman for yielding.

Mr. Chairman, my goal is to make sure that we have the provision of significant job opportunities for prisoners that will reduce crime. FPI does it with no cost. The gentleman from Michigan has suggested by his assurances that we might be able to come up with alternatives that will actually provide jobs another way and reduce costs. It might cost something. But I think the main focus ought to be the provision of jobs so we can reduce crime. It has been proven that these programs reduce crime.

With the gentleman's assurance that we can work together and possibly come up with some accommodation to replace the jobs that may be lost in the underlying bill, I will ask to withdraw the amendment.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOEKSTRA:

Page 29, after line 5, insert the following new subsection (and redesignate subsequent subsections in section 10 accordingly):

(b) ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.—

(1) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124 the following new section:

“§ 4124a. Additional inmate work opportunities through public service activities

“(a) IN GENERAL.—Inmates with work assignments within Federal Prison Industries may perform work for an eligible entity pursuant to an agreement between such entity and the Inmate Work Training Administrator in accordance with the requirements of this section.

“(b) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this section, the term ‘eligible entity’ means an entity—

“(1) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in an agreement under this section;

“(2) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code; or

“(3) that is a unit of local government, a school district, or another special purpose district.

“(c) INMATE WORK TRAINING ADMINISTRATOR.—

“(1) The Federal Prison Industries Board of Directors shall designate an entity as the Inmate Work Training Administrator to administer the work-based training program authorized by this section.

“(2) In selecting the Inmate Work Training Administrator, the Board of Directors shall select an entity—

“(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

“(B) that has demonstrated, for a period of not less than 5 years, expertise in the theory

and practice of fostering inmate rehabilitation through work-based programs in cooperation with private sector firms.

“(3) With respect to the formation and performance of an agreement authorized by this section, the Director of the Bureau of Prisons and the Chief Operating Officer of Federal Prison Industries shall be responsible only for—

“(A) maintaining appropriate institutional and inmate security; and

“(B) matters relating to the selection and payment of participating inmates.

“(d) PROPOSED AGREEMENTS.—An eligible entity seeking to enter into an agreement pursuant to subsection (a) shall submit a detailed proposal to the Inmate Work Training Administrator. Each such agreement shall specify—

“(1) types of work to be performed;

“(2) the proposed duration of the agreement, specified in terms of a base year and number of option years;

“(3) the number of inmate workers expected to be employed in the specified types of work during the various phases of the agreement;

“(4) the wage rates proposed to be paid to various classes of inmate workers; and

“(5) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement, if any, for such facilities, services, and personnel.

“(e) REPRESENTATIONS.—

“(1) ELEEMOSYNARY WORK ACTIVITIES.—Each proposed agreement shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

“(A) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity in the case of an entity described in paragraph (1) or (2) of subsection (b);

“(B) the work would not be performed but for the availability of the inmate workers;

“(C) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a new product or the furnishing of a service that is to be offered for other than resale or donation by the eligible entity or any affiliate of the such entity.

“(2) PROTECTIONS FOR NON-INMATE WORKERS.—Each proposed agreement shall also be accompanied by a written certification by the chief executive officer of the eligible entity that—

“(A) no non-inmate employee or volunteer of the eligible entity (or any affiliate of the entity) will have his or her job abolished or work hours reduced as a result of the entity being authorized to utilize inmate workers; and

“(B) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

“(f) APPROVAL BY BOARD OF DIRECTORS.—

“(1) IN GENERAL.—Each such proposed agreement shall be presented to the Board of Directors, be subject to the same opportunities for public comment, and be publicly considered and acted upon by the Board in a manner comparable to that required by paragraphs (6) and (7) of section 4122(b).

“(2) MATTERS TO BE CONSIDERED.—In determining whether to approve a proposed agreement, the Board shall—

“(A) give priority to an agreement that provides inmate work opportunities that will provide participating inmates with the best prospects of obtaining employment paying a livable wage upon release;

“(B) give priority to an agreement that provides for maximum reimbursement for in-

mate wages and for the costs of supplies and equipment needed to perform the types of work to be performed;

“(C) not approve an agreement that will result in the displacement of non-inmate workers or volunteers contrary to the representations required by subsection (e)(2) as determined by the Board or by the Secretary of Labor (pursuant to subsection (i)); and

“(D) not approve an agreement that will result, either directly or indirectly, in the production of a new product or the furnishing of a service for other than resale or donation.

“(g) WAGE RATES AND DEDUCTIONS FROM INMATE WAGES.—

“(1) IN GENERAL.—Inmate workers shall be paid wages for work under the agreement at a basic hourly rate to be negotiated between the eligible entity and Federal Prison Industries and specified in the agreement. The wage rates set by the Director of the Federal Bureau of Prisons to be paid inmates for various institutional work assignments are specifically authorized.

“(2) PAYMENT TO INMATE WORKER AND AUTHORIZED DEDUCTIONS.—Wages shall be paid and deductions taken pursuant to section 4122(b)(11)(C).

“(3) VOLUNTARY PARTICIPATION BY INMATE.—Each inmate worker to be utilized by an eligible entity shall indicate in writing that such person—

“(A) is participating voluntarily; and

“(B) understands and agrees to the wages to be paid and deductions to be taken from such wages.

“(h) ASSIGNMENT TO WORK OPPORTUNITIES.—Assignment of inmates to work under an approved agreement with an eligible entity shall be subject to the Bureau of Prisons Program Statement Number 1040.10 (Non-Discrimination Toward Inmates), as contained in section 551.90 of title 28 of the Code of Federal Regulations (or any successor document).

“(i) ENFORCEMENT OF PROTECTIONS FOR NON-INMATE WORKERS.—

“(1) PRIOR TO BOARD CONSIDERATION.—Upon request of any interested person, the Secretary of Labor may promptly verify a certification made pursuant subsection (e)(2) with respect to the displacement of non-inmate workers so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Secretary and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

“(2) DURING PERFORMANCE.—

“(A) IN GENERAL.—Whenever the Secretary deems appropriate, upon request or otherwise, the Secretary may verify whether the actual performance of the agreement is resulting in the displacement of non-inmate workers or the use of inmate workers in a work activity not authorized under the approved agreement.

“(B) SANCTIONS.—Whenever the Secretary determines that performance of the agreement has resulted in the displacement of non-inmate workers or employment of an inmate worker in an unauthorized work activity, the Secretary may—

“(i) direct the Inmate Work Training Administrator to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default; and

“(ii) initiate proceedings to impose upon the person furnishing the certification regarding non-displacement of non-inmate workers required by subsection (d)(2)(B) any administrative, civil, and criminal sanctions as may be available.”.

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated \$5,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise undertaking the maximum number of agreements with eligible entities pursuant to section 4124a of title 18, United States Code, as added by paragraph (1).

(3) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by inserting after the item relating to section 4124 the following new item:

“4124a. Additional inmate work opportunities through public service activities.”.

Mr. HOEKSTRA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Chairman, this amendment again addresses the issue that we have been working with the gentleman from Virginia (Mr. SCOTT), the gentleman from Virginia (Mr. WOLF) and others on to ensure that workers are engaged in productive and constructive work activities. What this amendment does is it further expands the inmate work opportunities in conjunction with not-for-profit organizations. As I explained earlier today, the bill allows for some partnering, but what this does now is it expands the partnership capabilities and also provides funding for those activities to take place.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to support this amendment. There has been a program that has been operational in the State of Ohio that has worked out very well, and I think we ought to expand that success to the Federal prison system. This amendment makes a constructive addition to the bill.

Mr. HOEKSTRA. I thank the chairman for that endorsement.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I indicated in my remarks, this would be part of the amendment that I just withdrew. This would actually provide meaningful job opportunities for inmates. It would therefore reduce crime. It has the added advantage, it would help non-profit charitable organizations get goods and services they may not be able to get. It does not have the advantage that it is paid for by itself. We would have to appropriate funds. But because it accomplishes all of the goals that we all have stated as goals for the prison industries program, I would hope that we would adopt this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. HOEKSTRA).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 10?

If not, the Clerk will designate section 11.

The text of section 11 is as follows:

SEC. 11. RESTRUCTURING THE BOARD OF DIRECTORS.

Section 4121 of title 18, United States Code, is amended to read as follows:

“§4121. Federal Prison Industries; Board of Directors: executive management

“(a) Federal Prison Industries is a government corporation of the District of Columbia organized to carry on such industrial operations in Federal correctional institutions as authorized by its Board of Directors. The manner and extent to which such industrial operations are carried on in the various Federal correctional institutions shall be determined by the Attorney General.

“(b)(1) The corporation shall be governed by a board of 11 directors appointed by the President.

“(2) In making appointments to the Board, the President shall assure that 3 members represent the business community, 3 members represent organized labor, 1 member shall have special expertise in inmate rehabilitation techniques, 1 member represents victims of crime, 1 member represents the interests of Federal inmate workers, and 2 additional members whose background and expertise the President deems appropriate. The members of the Board representing the business community shall include, to the maximum extent practicable, representation of firms furnishing services as well as firms producing products, especially from those industry categories from which Federal Prison Industries derives substantial sales. The members of the Board representing organized labor shall, to the maximum practicable, include representation from labor unions whose members are likely to be most affected by the sales of Federal Prison Industries.

“(3) Each member shall be appointed for a term of 5 years, except that of members first appointed—

“(A) 2 members representing the business community shall be appointed for a term of 3 years;

“(B) 2 members representing labor shall be appointed for a term of 3 years;

“(C) 2 members whose background and expertise the President deems appropriate for a term of 3 years;

“(D) 1 member representing victims of crime shall be appointed for a term of 3 years;

“(E) 1 member representing the interests of Federal inmate workers shall be appointed for a term of 3 years;

“(F) 1 member representing the business community shall be appointed for a term of 4 years;

“(G) 1 member representing the business community shall be appointed for a term of 4 years; and

“(H) the members having special expertise in inmate rehabilitation techniques shall be appointed for a term of 5 years.

“(4) The President shall designate 1 member of the Board as Chairperson. The Chairperson may designate a Vice Chairperson.

“(5) Members of the Board may be reappointed.

“(6) Any vacancy on the Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

“(7) The members of the Board shall serve without compensation. The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Board and, with

the advance approval of the Chairperson of the Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Board.

“(8)(A) The Chairperson of the Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

“(B) Upon request of the Chairperson of the Board, a Federal agency may detail a Federal Government employee to the Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

“(9) The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(c) The Director of the Bureau of Prisons shall serve as Chief Executive Officer of the Corporation. The Director shall designate a person to serve as Chief Operating Officer of the Corporation.”.

The CHAIRMAN pro tempore. Are there any amendments to section 11?

If not, the Clerk will designate section 12.

The text of section 12 is as follows:

SEC. 12. PROVIDING ADDITIONAL MANAGEMENT FLEXIBILITY TO FEDERAL PRISON INDUSTRIES OPERATIONS.

Section 4122(b)(3) of title 18, United States Code, is amended—

(1) by striking “(3)” and inserting “(3)(A)”;

and

(2) by adding at the end the following new paragraphs:

“(B) Federal Prison Industries may locate more than one workshop at a Federal correctional facility.

“(C) Federal Prison Industries may operate a workshop outside of a correctional facility if all of the inmates working in such workshop are classified as minimum security inmates.”.

The CHAIRMAN pro tempore. Are there any amendments to section 12?

If not, the Clerk will designate section 13.

The text of section 13 is as follows:

SEC. 13. TRANSITIONAL PERSONNEL MANAGEMENT AUTHORITY.

Any correctional officer or other employee of Federal Prison Industries being paid with non-appropriated funds who would be separated from service because of a reduction in the net income of Federal Prison Industries during any fiscal year specified in section 4(e)(1) shall be—

(1) eligible for appointment (or reappointment) in the competitive service pursuant to title 5, United States Code;

(2) registered on a Bureau of Prisons reemployment priority list; and

(3) given priority for any other position within the Bureau of Prisons for which such employee is qualified.

The CHAIRMAN pro tempore. Are there any amendments to section 13?

If not, the Clerk will designate section 14.

The text of section 14 is as follows:

SEC. 14. FEDERAL PRISON INDUSTRIES REPORT TO CONGRESS.

Section 4127 of title 18, United States Code, is amended to read as follows:

“§4127. Federal Prison Industries report to Congress

“(a) IN GENERAL.—Pursuant to chapter 91 of title 31, the board of directors of Federal Prison Industries shall submit an annual report to Congress on the conduct of the business of the corporation during each fiscal year and the condition of its funds during the fiscal year.

“(b) CONTENTS OF REPORT.—In addition to the matters required by section 9106 of title 31, and such other matters as the board considers appropriate, a report under subsection (a) shall include—

“(1) a statement of the amount of obligations issued under section 4129(a)(1) of this title during the fiscal year;

“(2) an estimate of the amount of obligations that will be issued in the following fiscal year;

“(3) an analysis of—

“(A) the corporation's total sales for each specific product and type of service sold to the Federal agencies and the commercial market;

“(B) the total purchases by each Federal agency of each specific product and type of service;

“(C) the corporation's share of such total Federal Government purchases by specific product and type of service; and

“(D) the number and disposition of disputes submitted to the heads of the Federal departments and agencies pursuant to section 4124(e) of this title;

“(4) an analysis of the inmate workforce that includes—

“(A) the number of inmates employed;

“(B) the number of inmates utilized to produce products or furnish services sold in the commercial market;

“(C) the number and percentage of employed inmates by the term of their incarceration; and

“(D) the various hourly wages paid to inmates employed with respect to the production of the various specific products and types of services authorized for production and sale to Federal agencies and in the commercial market; and

“(5) data concerning employment obtained by former inmates upon release to determine whether the employment provided by Federal Prison Industries during incarceration provided such inmates with knowledge and skill in a trade or occupation that enabled such former inmate to earn a livelihood upon release.

“(c) PUBLIC AVAILABILITY.—Copies of an annual report under subsection (a) shall be made available to the public at a price not exceeding the cost of printing the report.”.

The CHAIRMAN pro tempore. Are there any amendments to section 14?

If not, the Clerk will designate section 15.

The text of section 15 is as follows:

SEC. 15. INDEPENDENT STUDY TO DETERMINE THE EFFECTS OF ELIMINATING THE FEDERAL PRISON INDUSTRIES MANDATORY SOURCE AUTHORITY.

(a) STUDY REQUIRED.—The Comptroller General shall undertake to have an independent study conducted on the effects of eliminating the Federal Prison Industries mandatory source authority.

(b) SOLICITATION OF VIEWS.—The Comptroller General shall ensure that in developing the statement of work and the methodology for the study, the views and input of private industry, organized labor groups, Members and staff of the relevant Congressional committees, officials of the executive branch, and the public are solicited.

(c) SUBMISSION.—Not later than June 30, 2004, the Comptroller General shall submit the results of the study to Congress, including any recommendations for legislation.

The CHAIRMAN pro tempore. Are there any amendments to section 15?

If not, the Clerk will designate section 16.

The text of section 16 is as follows:

SEC. 16. SENSE OF CONGRESS.

It is the sense of Congress that it is important to study the concept of implementing a “good time” release program for non-violent criminals in the Federal prison system.

The CHAIRMAN pro tempore. Are there any amendments to section 16?

If not, the Clerk will designate section 17.

The text of section 17 is as follows:

SEC. 17. DEFINITIONS.

Chapter 307 of title 18, United States Code, is amended by adding at the end the following new section:

§ 4131. Definitions

"As used in this chapter—

"(1) the term 'assembly' means the process of uniting or combining articles or components (including ancillary finished components or assemblies) so as to produce a significant change in form or utility, without necessarily changing or altering the component parts;

"(2) the term 'current market price' means, with respect to a specific product, the fair market price of the product within the meaning of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), at the time that the contract is to be awarded, verified through appropriate price analysis or cost analysis, including any costs relating to transportation or the furnishing of any ancillary services;

"(3) the term 'import-sensitive product' means a product which, according to Department of Commerce data, has experienced competition from imports at an import to domestic production ratio of 25 percent or greater;

"(4) the term 'labor-intensive manufacture' means a manufacturing activity in which the value of inmate labor constitutes at least 10 percent of the estimate unit cost to produce the item by Federal Prison Industries;

"(5) the term 'manufacture' means the process of fabricating from raw or prepared materials, so as to impart to those materials new forms, qualities, properties, and combinations;

"(6) the term 'reasonable share of the market' means a share of the total purchases by the Federal departments and agencies, as reported to the Federal Procurement Data System for—

"(A) any specific product during the 3 preceding fiscal years, that does not exceed 20 percent of the Federal market for the specific product; and

"(B) any specific service during the 3 preceding fiscal years, that does not exceed 5 percent of the Federal market for the specific service; and

"(7) the term 'services' has the meaning given the term 'service contract' by section 37.101 of the Federal Acquisition Regulation (48 C.F.R. 36.102), as in effect on July 1, 2002."

The CHAIRMAN pro tempore. Are there any amendments to section 17?

If not, the Clerk will designate section 18.

The text of section 18 is as follows:

SEC. 18. IMPLEMENTING REGULATIONS AND PROCEDURES.

(a) FEDERAL ACQUISITION REGULATION.—

(1) PROPOSED REVISIONS.—Proposed revisions to the Governmentwide Federal Acquisition Regulation to implement the amendments made by this Act shall be published not later than 60 days after the date of the enactment of this Act and provide not less than 60 days for public comment.

(2) FINAL REGULATIONS.—Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(3) PUBLIC PARTICIPATION.—The proposed regulations required by subsection (a) and the final regulations required by subsection (b) shall afford an opportunity for public participation in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of Federal Prison Industries shall issue regulations defining the terms specified in paragraph (2).

(2) TERMS TO BE DEFINED.—The Board of Directors shall issue regulations for the following terms:

(A) Prison-made product.

(B) Prison-furnished service.

(C) Specific product.

(D) Specific service.

(3) SCHEDULE FOR REGULATORY DEFINITIONS.—

(A) Proposed regulations relating to the matter described in subsection (b)(2) shall be pub-

lished not later than 60 days after the date of enactment of this Act and provide not less than 60 days for public comment.

(B) Final regulations relating to the matters described in subsection (b)(2) shall be published not less than 180 days after the date of enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(4) ENHANCED OPPORTUNITIES FOR PUBLIC PARTICIPATION AND SCRUTINY.—

(A) ADMINISTRATIVE PROCEDURE ACT.—Regulations issued by the Board of Directors shall be subject to notice and comment rulemaking pursuant to section 553 of title 5, United States Code. Unless determined wholly impracticable or unnecessary by the Board of Directors, the public shall be afforded 60 days for comment on proposed regulations.

(B) ENHANCED OUTREACH.—The Board of Directors shall use means designed to most effectively solicit public comment on proposed regulations, procedures, and policies and to inform the affected public of final regulations, procedures, and policies.

(C) OPEN MEETING PROCESSES.—The Board of Directors shall take all actions relating to the adoption of regulations, operating procedures, guidelines, and any other matter relating to the governance and operation of Federal Prison Industries based on deliberations and a recorded vote conducted during a meeting open to the public, unless closed pursuant to section 552(b) of title 5, United States Code.

The CHAIRMAN pro tempore. Are there any amendments to section 18?

If not, the Clerk will designate section 19.

The text of section 19 is as follows:

SEC. 19. RULES OF CONSTRUCTION.

(a) AGENCY BID PROTESTS.—Subsection (e) of section 4124 of title 18, United States Code, as amended by section 2, is not intended to alter any rights of any offeror other than Federal Prison Industries to file a bid protest in accordance with other law or regulation in effect on the date of the enactment of this Act.

(b) JAVITS-WAGNER-O'DAY ACT.—Nothing in this Act is intended to modify the Javits-Wagner-O'Day Act (41 U.S.C. 46, et seq.).

The CHAIRMAN pro tempore. Are there any amendments to section 19?

If not, the Clerk will designate section 20.

The text of section 20 is as follows:

SEC. 20. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICABILITY.—Section 4124 of title 18, United States Code, as amended by section 2, shall apply to any requirement for a product or service offered by Federal Prison Industries needed by a Federal department or agency after the effective date of the final regulations issued pursuant to section 18(a)(2), or after September 30, 2004, whichever is earlier.

The CHAIRMAN pro tempore. Are there any amendments to section 20?

If not, the Clerk will designate section 21.

The text of section 21 is as follows:

SEC. 21. CLERICAL AMENDMENTS.

The table of sections for chapter 307 of title 18, United States Code, is amended—

(1) by amending the item relating to section 4121 to read as follows:

"4121. Federal Prison Industries; Board of Directors: executive management.";

(2) by amending the item relating to section 4124 to read as follows:

"4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries.";

(3) by amending the item relating to section 4127 to read as follows:

"4127. Federal Prison Industries report to Congress.";

and

(4) by adding at the end the following new items:

"4130. Construction of provisions.

"4131. Definitions."

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill, add the following new section:

SEC. 22. SUNSET.

If the Attorney General makes a written determination before the end of the 3-year period beginning on the date of the enactment of this Act that the implementation of this Act creates a significant risk or adverse effect on public or prison safety, prison management, or prison rehabilitation opportunities, then this Act, and the amendments made by this Act, shall not be in effect on and after the date occurring 3 years after such date of enactment (and the law shall read as if this Act were not enacted).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I have repeatedly said in my debate and discourse on this bill that many of us have worked to put together aspects of this legislation that will respond to a number of concerns. I do not have an attitude, Mr. Chairman, that this bill is totally without merit, and I respect the gentleman from Michigan's issues as relates to certain areas of this Nation that have been impacted as many of my friends have come to the floor on a trade policy that some would call in disarray. We have lost jobs in America. We have lost 3 million manufacturing jobs. We have small businesses that are clamoring to find ways to provide health care for their employees.

I would be the first to say that the role of this Congress is to be a problem solver. I have stood with my colleagues as relates to job creation and to emphasize the importance of providing tax incentives to small businesses and also ways to assist them in securing good health insurance.

Frankly, I believe several amendments that have passed today are good amendments. The Waters/ Millender-McDonald amendment I support provides for increasing the minimum wage to help those inmates who are incarcerated have, in essence, a trust fund when they leave the Bureau of Prisons from their incarcerations to make a difference. But I think this bill is all about the competition, the loss of jobs.

I want to cite a number of figures that might speak to that issue. It relates to the number of prisoners that we have in the Federal prison population for years 2000, 2001 and 2002: 39,679, 36,000, and 36,000 persons respectively would lose opportunities to work. The State prison population for the same years is 20,200, 20,898, and 23,561. I believe that the crux of the

issue is whether or not this bill will answer the concerns and how long it should be implemented. The bill has in it a 5-year phase-out of the prison industries' effort.

What my amendment will simply do, Mr. Chairman, is put our money and our mouth and our concerns right where they should be. If the Attorney General determines that we will impact prison management, safety, the rehabilitation of prisoners, control, if that is impacted, then this will be sunsetted in 3 years. That is the crux of what this particular amendment will attempt to do.

It does not attempt to do it in a vacuum. It does not attempt to do it because there is dispute over which direction we should take. It asks the Attorney General to have a large role. Mr. Chairman, we are talking about an Attorney General that the majority knows, because this is in the context of 3 years, and right now we are suggesting that if this legislation undermines the running of our prisons, with a large number of inmates, where they do not have the opportunity to work and if we find that that opportunity supersedes the good intentions of this bill, which is to bring relief to some areas where large prisons are that are run by the Federal Government that use and have resources and that it is impacting in the area small businesses, then the Attorney General will not act. But he or she will act if he finds in good faith that public or prison safety, prison management, prison rehabilitation opportunities will be impacted negatively by this particular legislation.

This is a thoughtful amendment in that it is an amendment that is used in many of our legislative initiatives and, that is, to sunset, to bring an end to it until we can assess where we are. I simply say to my colleagues that we cannot have it all, that is, incarcerate individuals who perpetrated offenses, expect for them to be contributing members of our society, and do nothing to help that occur. If you live in communities where I live, if you live in poor rural areas, you will find many of these young men returning home to empty opportunities. Every job application, Mr. Chairman, requires an incarcerated person to note whether they have been convicted or incarcerated. Many of them are paying because they are not allowed to vote. They are not allowed to mainstream into our communities.

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And so we are looking for a chance in this legislation and we do not give them a chance if we allow the crux of their survival to be taken away from them, Mr. Chairman. Sunset this bill on the basis of the Attorney General's recommendation and do what is right not only for small businesses, but for inmates who are trying to rehabilitate.

Mr. Chairman, I rise to offer an amendment to H.R. 1829, the "Federal Prison Industries Competition in Contracting Act of 2003." The specific language of JACKSO.166 reads:

If the Attorney General makes a written determination before the end of the 3-year period beginning on the date of the enactment of this Act that the implementation of this Act creates a significant risk or adverse effect on public or prison safety, prison management, or prison management, or prison rehabilitation opportunities, then this Act, and the amendments made by this Act, shall not be in effect on and after the date occurring 3 years after such date of enactment (and the law shall read as if this Act were not enacted).

This amendment offers a safety net for an otherwise certain end to the Federal Prison Industries program, which has clearly demonstrated itself to be a positive thing for our federal inmate population. Sunsetting H.R. 1829 will give the expansion of competition in the federal prison procurement industry a fair chance to operate. Opponents of FPI who argue that it kills small businesses will have an opportunity to demonstrate whether or not FPI does impact their ability to compete. However, the important thing about this amendment is that it ensures that there is protection of the inmate population in case these opponents are wrong.

When FPI allows federal inmates to earn money to send to their wives, elderly parents, and small children, we see that the negative impact that H.R. 1829 will have is local and hard-hitting. The amendment that was offered by my colleague Ms. MILLENDER-MCDONALD would have enhanced this ability to give family support by creating a trust fund mechanism for these inmates. The conclusiveness of this bill as drafted threatens the lives and livelihood of many American families. My amendment ensures that these families won't have the doors of justice slam in their faces. If the FPI program's elimination is shown to have a negative impact on these families, we will see an immediate return to the plan that has demonstrated its viability. This is a true case of "if it isn't broken, don't fix it." I would ask that my colleagues at least follow a middle ground by voting to accept my amendment, which would change that saying to "if it isn't broken after trying something else, let's not allow it to break."

Furthermore, this bill threatens the safe environment of the federal prisons and the fight against recidivism. With the elimination of mandatory source preferences for FPI, we will take activities away from a large number of former prison employees. What will these individuals do once their jobs have been taken away from them? For many of them, the jobs were a very important diversion from anger, hate, and violence. The jobs that will be taken away from them will invite violence in the prisons as well as in the workplace for the Federal Bureau of Prisons. Moreover, the job training that will be lost will create a situation ripe for recidivism. The Jackson Lee Amendment will ensure that we can correct this situation after we have educated ourselves on the alternatives offered by the removal of mandatory source preferences.

Over 2 million offenders are incarcerated in the nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come. Without the protection that is offered by my amendment, these numbers can represent cultures of violence, cultures of

recidivism, and cultures of liabilities to our society rather than positive contributors.

FPI is a self-supporting government operation. Revenue generated by the corporation is used to purchase equipment and raw materials, pay wages to inmates and staff, and expand facilities. Last year, FPI generated over \$566 million in revenue, \$418 million of which went to purchasing goods and services from the private sector, 74 percent of which went to small and minority owned businesses in local communities across this country.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic.

The bill before us today provides for a five-year phase-out of mandatory source preference by granting to FPI's Federal agency customer's authority to first solicit on a non-competitive basis. However, at the end of the phase-out period there is no existing substitute for the services and program. Looking to the states, there simply is not enough program participation to accommodate the 25 percent that is currently accommodated under FPI.

During FY 2002, FPI spent 74 percent of its \$680 million in sales revenues (that is, \$503 million) on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases (that is, \$311 million) were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small businesses. From 1997–2001, FPI has awarded \$851 million in contracts to small businesses, which is a yearly average of 57 percent.

Clearly, the existing FPI program has positive effects on the economic viability of the prison inmate community by way of jobs and job training, the small, minority-, and women-owned business communities by way of offering equal access to federal procurement contracts, and to the community by way of reducing incidence of recidivism. H.R. 1829 will phase these benefits out potentially, unless my amendment is included that will provide a necessary protection mechanism.

I urge my colleagues to vote for the Jackson-Lee Amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, not only does this amendment have the potential of tossing into the wastebasket many years of work by the Congress and by those who were contracted to do work on this issue by the Congress, but it also sets the unprecedented provision that allows an officer of the executive branch, the Attorney General, to wipe a law off the books. Article 1 of the Constitution gives the exclusive legislative authority in this country to the elected Congress of the United States, and Congress makes the laws; Congress amends the laws; and Congress repeals the

laws. And no officer of the executive branch should have the authority to make a determination that wipes the a law off the books. And that is what this amendment does. It gives the Attorney General of the United States, whether it be Mr. Ashcroft or one of his successors, the authority to actually change the statutes that have been passed by Congress. And for that reason alone, this amendment should be rejected.

But I would like to talk about the work that has been done on Prison Industries over the years. In public law 101-515, the Commerce, Justice, State Appropriations Act for fiscal year 1991, there was a 16-month review done under contract by Deloitte & Touche, 500 pages of reporting to Congress on study findings and recommendation and appendices. No action. Then there was a 2-year Federal Prison Industries summit process, from 1991 to 1993, that was led by the Brookings Institution and brought together all of the stakeholders to develop practical implementation strategies for the recommendations of the Market Survey just referred to. Nothing happened.

And then this has been studied and studied and studied. I have three recent General Accounting Office reports from 1998. Federal Prison Industries Limited Data Available on Customer Satisfaction, ignored because we did nothing. Federal Prison Industries Information on Product Pricing, ignored because we did nothing. Federal Prison Industries Delivery Performance is Improving but Problems Remain, ignored because we did nothing. And look at all the hearings that have been held in various committees of the Congress to reform Federal Prison Industries. Literally here almost ten inches of hearing transcripts that have been held before the Committee on the Judiciary, the Committee on Small Business, the Committee on Education and the Workforce. And if we do not do anything to reform Prison Industries, all of the testimony that was given on the fact that this system is broken will be ignored.

The time has come for Congress to take some action, and this bill has been the result of infinite negotiations and compromises that have been made, improvements that have been made to the legislation, including amendments adopted here on the floor today. And for the gentlewoman from Texas to propose an amendment that says that all of this work can be abolished at the stroke of the pen of the Attorney General in 3 years really does no business to our doctrine of separation of powers, as well as to all of the work that the legislative branch has either done or sponsored. For this reason, this amendment should be overwhelmingly defeated.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the work that my colleague from Texas does on this and other issues, but in this case we disagree. I think it would be a grave error to sunset.

Sunset is a legitimate tool, but when we adopt a sunset, I think we need to calculate what incentive we are setting in motion. For example, the gentleman from Wisconsin played a very useful role here. We in the House Committee on the Judiciary, on which I then served, insisted on a sunset to the Patriot Act because a lot of new powers were being granted affirmatively, and we felt that it was important that, as we started these brand new powers, the people exercising the powers should know that they would have to come and get them renewed. There was an incentive in that sunset to the people given the grant of new authority to exercise it in a reasonable way.

Here, though, a sunset would create, I believe, perverse incentives. We know on good faith people in the Bureau of Prisons do not like this bill. The people in the Federal Prison Industries do not like the bill. The people who are now working to provide rehabilitative employment efforts to inmates, which all of us support, like the current system and do not want to have to go to a new system. For the new system to work well, we have provisions in this bill that say there will be additional training for the inmates, there will be donation programs, and that is being strengthened, there will not programs whereby we in this bill mandate the people who run the Federal prisons to find alternatives to the sale of these products. We want them to continue working, but we want a variety of things to be done so that there can be donations to charitable groups, et cetera. It is going to be more work for the people who now run the prisons. It will be the course of least resistance for them to go with the status quo. That is why, I think, a sunset creates a perverse incentive, because the people who do not want this program to work are the people who are in charge of making it work, and if they know that if we have not been able to find other work, if they can simply sit and let some of these provisions for alternative sources of employment go unused, they will make their case for getting rid of this.

So it is one thing if we give a grant of power to people and tell them, look, go use these powers wisely because they have to come back to us. It is another thing to say to a group of people who do not like what we are doing, if, in fact, the efforts to make work what they do not want to work are not very effective, then they will have achieved their goal.

So I really believe that a sunset goes in the wrong direction here. I think we need to give the Federal Prison Industries every incentive to make this work. I do not want them to have the benefit of saying we cannot find 100 day-care centers and shelters; if we cannot set up these alternatives, if we cannot do all these new jobs that have been put on us, then we will have a good argument to the Attorney General to abolish it.

I also agree with the argument made by the chairman, who is a very strong and thoughtful defender of the role of elected Representatives in our democracy. He is quite right to object to this on separation of powers grounds. This is far too great a delegation of power to the Attorney General. But there is also, I think, what I believe to be a perverse incentive. So for both reasons, because I believe we should go to a new system in which the inmates are given work but we finance that work differently, and that is going to be a complicated task to put on people in the prisons. I do not want the bureaucrats, the administrators of this, to have any incentive not to do their very best.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the reasons I have already articulated, I think this would be a good amendment, and I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the very distinguished gentleman from Virginia for yielding and for his leadership on this bill.

Mr. Chairman, the debate today shows that good friends can agree to disagree on policy, and I rise to offer some commentary and support of my amendment to sunset and to suggest that I in no way have disagreement or would want to override the distinctiveness between the three branches of government. I am a zealot, if you will, as it relates to the responsibility of Congress to be both in the position of oversight, giving oversight to the executive, and as well to be independent. There are three independent branches of government.

But I want to speak particularly to this bill and all of the pages of research and hearings again to emphasize to my colleagues that there is no crisis here, and even though we may have worked on this for years and years, there is no crisis. My recollection is that in the course of many legislative initiatives that we have had, such as the Voter Rights Act of 1965 and the Civil Rights Act of 1964, those were hundreds of years in the making. That is a crisis. This is not.

And let me share with my colleagues these numbers. Seventy-four percent of the Federal Prison Industries, \$680 million in sale revenues, that is \$503 million they spend on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases, that is, \$311 million, were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI, the Federal Prison Industries, has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small businesses

from 1997 to 2001. FPI has awarded \$851 million in contracts to small businesses, which is a yearly average of 57 percent.

I would have wanted to offer an amendment that would give us precise information continuously about the procurement process and how we can encourage more small businesses to be engaged. I will not offer that amendment. On the other hand, I think this has to do with the safety, the management, the rehabilitation aspects, and the control of our Federal prisons. With over 2 million Americans and others in the United States jails and prisons, I cannot be told that the Attorney General's involvement in determining whether this legislation in its enactment will undermine the management and control and the survival and existence and the sanctity of these prisons, with this huge number of inmates, so that he or she can determine that we should sunset this bill because it does generate a crisis of control. Then I would ask my colleagues what then is our role? Our role is to be thoughtful and it is to be instructive and it is to ensure the safety of the American people and our communities, and a disruptive prison system because we do not have order, because we have people who are without resources, without work, without ability to contribute into their trust funds to provide for their families, I think that is disruptive.

So I would say to my colleagues that this is a concerted thoughtful amendment that deals with trying to solve the problem. It does not tell the Attorney General to do so. It gives he or she criteria, and those are: A significant risk or adverse effect on public or prison safety, prison management, or prison rehabilitation opportunities. Then this Act, and the amendments made by this Act, shall not be in effect after 3 years.

This is giving discretion. This is reasonable. This is thoughtful because we are concerned about the balance of our small businesses and the order of our prison system. And I believe when we are on the floor of the House, Mr. Chairman, that is the task of all of us, to be able to work in a thoughtful process because legislation leaving this body becomes final. It goes to the Senate and ultimately to the President's desk. Where then should we do our work to provide a reasonable response to what may be a crisis? And I do not know if anyone can manage two million of those in our prisons and jails when they do not have the opportunity to have a future and to look forward to being trained and to be able to get out and be deemed a responsible and contributing adult to this society.

I ask my colleagues to consider this amendment and to vote for the Jackson-Lee amendment that is a thoughtful way of handling this challenge that we have but not yet a crisis.

□ 1515

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. This bill, I am sometimes a little surprised by how it is described. Sunsetting the bill after 3 years, it is a 5-year phase-out of mandatory sourcing, so, as we are implementing the bill, midway through the process the Attorney General arbitrarily could declare the bill null and void and go back to the legislation that we have today.

The bill allows for the Attorney General under certain circumstances, if there are concerns about prison safety or the performance of the prisons, to take action in regard to mandatory sourcing and sole-source suppliers to make sure that we do not have unsafe conditions in the prisons.

It is interesting that the Attorney General is offering awards for "small business companies of the year" and identifying Federal Prison Industries as one of those. If you go to government procurement managers, government procurement managers are in favor of H.R. 1829 because they have clearly through their experience not had that kind of outstanding service by Federal Prison Industries. What they want is the ability to get the best product. We ask them to do more for less.

Business and labor support this. It is not a crisis to us perhaps, and it is perhaps not a crisis to the AFL-CIO in its entirety, or to the Chamber of Commerce or to NFIB or to the Teamsters. But what each of these organizations has experienced is that certain of their members, certain of the companies that they represent, have experienced the crisis, because the crisis has been their businesses have closed and their employees have lost jobs because they have been unable to compete for Federal contracts.

We have the protections in place. This amendment is not necessary. Give H.R. 1829 the opportunity to be implemented, to be monitored; and if there are changes that need to be made after it is implemented and after it is working, it is the responsibility of Congress to make those changes, to fine-tune it, not the responsibility of the Attorney General to deep-six the whole program.

The CHAIRMAN pro tempore (Mr. BONILLA). The question is on the amendment offered by the gentleman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Ms. JACKSON-LEE) will be postponed.

The CHAIRMAN pro tempore. Are there further amendments to section 21?

AMENDMENT OFFERED BY MR. STRICKLAND

Mr. STRICKLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRICKLAND:
Add at the end of the bill the following new section:

SEC. 22. PROCUREMENT OF GOODS AND SERVICES MANUFACTURED IN THE UNITED STATES.

In any case in which a procurement activity proceeds to conduct a procurement for a product or service as described in paragraph (6) of section 4124(b) of title 18, United States Code, as added by section 2, the procurement must be of goods or services manufactured in the United States.

Mr. STRICKLAND. Mr. Chairman, I want to say a word about this debate today. In my judgment, it has been one of the most thoughtful, substantive debates that I have witnessed in this Chamber, and I think the reason for it is it is not based upon being a liberal or conservative or Republican or Democrat; but it is an attempt to deal with a serious matter, and I think there are people of differing opinions who want to do the right thing and are trying to do the right thing.

I intend to vote for this bill. But one of the concerns that I have had and one of the concerns that has been expressed here today is that we simply do not want to deprive work from being undertaken in our prisons and then allow that work to be performed outside of our country.

This amendment is very simple. It just simply says under those circumstances where the Federal Bureau of Prisons is permitted to bid on a procurement activity, those competing private bidders must provide whatever goods and services they are seeking to provide which are manufactured within the United States of America. I think that will solve a lot of concerns that many of us have.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. STRICKLAND. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Ohio for yielding. I am happy to accept the amendment, and I hope it is adopted.

Mr. STRICKLAND. Mr. Chairman, reclaiming my time, I thank my friend.

Mr. HOEKSTRA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I thank my colleague for working with us in structuring this amendment in a way that, again, improves the bill.

I just want to take a moment to thank a number of my colleagues, as we are coming to the conclusion of this debate. We have been down a long road to get here, but the gentleman from Massachusetts (Mr. FRANK), the gentleman from New York (Mrs. MALONEY), and the gentleman from Michigan (Mr. CONYERS) have been great partners on the other side of the aisle. We have been working at this effort for almost 7 years.

On this side of the aisle, the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from

Georgia (Mr. COLLINS), and I have worked with these and other Members to craft this legislation.

As we found out today, we still have some disagreements, but we are intent on continuing to work with the gentleman from Virginia (Mr. SCOTT), the gentleman from Virginia (Mr. WOLF), and a few others to take this bill and, hopefully, put the final pieces together. But it has been a very constructive process to get where we are today.

As the gentleman from Ohio (Mr. STRICKLAND) said, we had a great debate and great discussion. Part of it is because we have had different folks coming together from different ways, but also we worked together for 7 years in bringing this bill together. As we have gone through that process, we recognized the need for compromise, we recognized that in certain areas we have not reached there; but at all times, we have never let our disagreements impact the personal relationships and the trust we have built over the last 7 years.

So I would like to thank my colleagues for the work that we have had, for the tone and the tenor of the debate today, which has really, I think, brought credit to the House.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. STRICKLAND).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 21?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: An amendment offered by Mr. GREEN of Wisconsin and an amendment offered by Ms. JACKSON-LEE of Texas.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT OFFERED BY MR. GREEN OF WISCONSIN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 91, noes 325, not voting 18, as follows:

[Roll No. 610]

AYES—91

Baca	Holden	Rogers (KY)
Berry	Holt	Ross
Blumenauer	Honda	Roybal-Allard
Blunt	Hunter	Rush
Brown-Waite,	Hyde	Ryan (OH)
Ginny	Issa	Sandlin
Capps	Jackson (IL)	Saxton
Capuano	Jackson-Lee	Scott (GA)
Cardoza	(TX)	Scott (VA)
Carson (IN)	Jefferson	Serrano
Case	Jones (NC)	Sherwood
Chabot	Kennedy (MN)	Skelton
Davis (CA)	Kline	Smith (NJ)
Davis (IL)	Lampson	Stenholm
Davis, Tom	Larson (CT)	Strickland
DeLaunt	Lofgren	Stupak
Diaz-Balart, L.	Lowey	Tancredo
Diaz-Balart, M.	Lucas (OK)	Taylor (MS)
Doggett	Lynch	Terry
Farr	Marshall	Thomas
Fattah	McHugh	Turner (TX)
Frost	McNulty	Udall (CO)
Gilchrest	Millender-	Udall (NM)
Goodlatte	McDonald	Van Hollen
Green (WI)	Miller (NC)	Wamp
Hall	Mollohan	Waters
Harman	Payne	Weller
Harris	Peterson (PA)	Wicker
Hayworth	Petri	Wolf
Hefley	Pitts	Woolsey
Hensarling	Rahall	
Hinchev	Rodriguez	

NOES—325

Abercrombie	Cooper	Green (TX)
Aderholt	Costello	Greenwood
Akin	Cox	Grijalva
Alexander	Cramer	Gutierrez
Allen	Crane	Hart
Andrews	Crenshaw	Hastings (WA)
Baird	Crowley	Hayes
Baker	Cubin	Herger
Baldwin	Culberson	Hill
Ballance	Cummings	Hinojosa
Ballenger	Cunningham	Hobson
Barrett (SC)	Davis (AL)	Hoefel
Bartlett (MD)	Davis (FL)	Hoekstra
Barton (TX)	Davis (TN)	Hooley (OR)
Bass	Davis, Jo Ann	Hostettler
Beauprez	DeFazio	Houghton
Becerra	DeGette	Hoyer
Bell	DeLauro	Hulshof
Bereuter	DeLay	Inslie
Berkley	DeMint	Isakson
Berman	Deutsch	Israel
Biggart	Dicks	Istook
Bilirakis	Dingell	Janklow
Bishop (GA)	Dooley (CA)	Jenkins
Bishop (NY)	Doolittle	John
Blackburn	Doyle	Johnson (CT)
Boehlert	Dreier	Johnson (IL)
Boehner	Duncan	Johnson, E. B.
Bonilla	Dunn	Johnson, Sam
Bonner	Edwards	Kanjorski
Bono	Ehlers	Kaptur
Boozman	Emanuel	Keller
Boswell	Emerson	Kelly
Boucher	Engel	Kennedy (RI)
Boyd	English	Kildee
Bradley (NH)	Eshoo	Kind
Brady (PA)	Etheridge	King (IA)
Brady (TX)	Evans	King (NY)
Brown (OH)	Everett	Kingston
Brown (SC)	Feeney	Kirk
Brown, Corrine	Ferguson	Klecza
Burgess	Filner	Knollenberg
Burns	Flake	Kolbe
Burr	Foley	Kucinich
Burton (IN)	Forbes	LaHood
Buyer	Ford	Langevin
Calvert	Fossella	Lantos
Camp	Frank (MA)	Larsen (WA)
Cannon	Franks (AZ)	Latham
Cantor	Frelinghuysen	LaTourette
Capito	Gallely	Leach
Cardin	Garrett (NJ)	Lee
Carson (OK)	Gerlach	Levin
Carter	Gibbons	Lewis (CA)
Castle	Gillmor	Lewis (GA)
Chocola	Gingrey	Lewis (KY)
Clay	Gonzalez	Linder
Clyburn	Goode	LoBiondo
Coble	Gordon	Lucas (KY)
Cole	Goss	Majette
Collins	Granger	Maloney
Conyers	Graves	Manzullo

Markey	Pallone	Simmons
Matheson	Pascrell	Simpson
Matsui	Pastor	Slaughter
McCarthy (MO)	Pearce	Smith (MI)
McCarthy (NY)	Pelosi	Smith (TX)
McCollum	Pence	Smith (WA)
McCotter	Peterson (MN)	Snyder
McCrery	Pickering	Solis
McDermott	Platts	Souder
McGovern	Pombo	Spratt
McIntyre	Pomeroy	Stark
McKeon	Porter	Stearns
Meehan	Portman	Sullivan
Meek (FL)	Price (NC)	Sweeney
Meeks (NY)	Pryce (OH)	Tanner
Menendez	Putnam	Tauscher
Mica	Radanovich	Tauzin
Michaud	Ramstad	Taylor (NC)
Miller (FL)	Regula	Thompson (CA)
Miller (MI)	Rehberg	Thompson (MS)
Miller, Gary	Renzi	Thornberry
Miller, George	Reynolds	Tiahrt
Moore	Rogers (AL)	Tiberi
Moran (KS)	Rogers (MI)	Tierney
Moran (VA)	Rohrabacher	Toomey
Murphy	Ros-Lehtinen	Turner (OH)
Murtha	Rothman	Upton
Musgrave	Royce	Velazquez
Myrick	Ruppersberger	Visclosky
Nadler	Ryan (WI)	Vitter
Napolitano	Ryun (KS)	Walden (OR)
Nethercutt	Sabo	Walsh
Neugebauer	Sanchez, Linda	Watson
Ney	T.	Watt
Northup	Sanchez, Loretta	Waxman
Norwood	Sanders	Weiner
Nunes	Schakowsky	Weldon (FL)
Nussle	Schiff	Weldon (PA)
Oberstar	Schrock	Wexler
Obey	Sensenbrenner	Whitfield
Olver	Sessions	Wilson (NM)
Ortiz	Shadeegg	Wilson (SC)
Osborne	Shaw	Wu
Ose	Shays	Wynn
Otter	Sherman	Young (AK)
Owens	Shimkus	Young (FL)
Oxley	Shuster	

NOT VOTING—18

Ackerman	Gutknecht	Neal (MA)
Bachus	Hastings (FL)	Paul
Bishop (UT)	Jones (OH)	Quinn
Deal (GA)	Kilpatrick	Rangel
Fletcher	Lipinski	Reyes
Gephardt	McInnis	Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BONILLA) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1547

Ms. LINDA SÁNCHEZ of California, and Messrs. BARTLETT of Maryland, TURNER of Ohio, OTTER, LEVIN, SMITH of Washington, HOEFFEL, TOOMEY, Ms. ESHOO, Ms. HOOLEY of Oregon, Mr. WEXLER, Mr. OWENS, Ms. SLAUGHTER, Mr. GORDON, and Mrs. NORTHUP changed their vote from “aye” to “no.”

Mr. HAYWORTH, Mr. DELAHUNT, Ms. HARRIS, and Messrs. ROSS, PAYNE, TOM DAVIS of Virginia, and RUSH changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BONILLA). Pursuant to clause 6 of rule XVIII the next vote will be conducted as a 5-minute vote.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 100, noes 313, not voting 21, as follows:

[Roll No. 611]

AYES—100

Abercrombie	Gilchrest	Olver
Baca	Green (TX)	Ortiz
Ballance	Green (WI)	Owens
Bell	Grijalva	Pastor
Berman	Harman	Payne
Berry	Hinchey	Petri
Bishop (GA)	Holt	Rahall
Blumenauer	Honda	Rodriguez
Brady (TX)	Jackson (IL)	Rogers (KY)
Brown, Corrine	Jackson-Lee	Ross
Brown-Waite,	(TX)	Roybal-Allard
Ginny	Jefferson	Rush
Capuano	Johnson, E. B.	Sanchez, Linda
Cardoza	Kucinich	T.
Carson (IN)	Lampson	Sandlin
Case	Lantos	Saxton
Chabot	Larson (CT)	Schakowsky
Clay	Lee	Scott (GA)
Clyburn	Lewis (GA)	Scott (VA)
Conyers	Lofgren	Serrano
Crowley	Marshall	Solis
Cummings	McCollum	Spratt
Davis (AL)	McDermott	Stenholm
Davis (CA)	McHugh	Strickland
Davis (IL)	McNulty	Taylor (MS)
DeFazio	Meek (FL)	Thompson (MS)
DeGette	Meeks (NY)	Turner (TX)
Delahunt	Millender-	Udall (CO)
Doggett	McDonald	Udall (NM)
Eshoo	Miller (NC)	Van Hollen
Etheridge	Mollohan	Visclosky
Farr	Moran (VA)	Waters
Fattah	Napolitano	Watson
Filner	Oberstar	Wolf
Frost	Obey	

NOES—313

Aderholt	Boyd	Culberson
Akin	Bradley (NH)	Cunningham
Alexander	Brady (PA)	Davis (FL)
Allen	Brown (OH)	Davis (TN)
Andrews	Brown (SC)	Davis, Jo Ann
Baird	Burgess	Davis, Tom
Baker	Burns	DeLauro
Baldwin	Burr	DeLay
Ballenger	Burton (IN)	DeMint
Barrett (SC)	Buyer	Deutsch
Bartlett (MD)	Calvert	Diaz-Balart, L.
Barton (TX)	Camp	Diaz-Balart, M.
Bass	Cannon	Dicks
Beauprez	Cantor	Dingell
Becerra	Capito	Dooley (CA)
Bereuter	Cardin	Doolittle
Berkley	Carson (OK)	Doyle
Biggart	Carter	Dreier
Billirakis	Castle	Duncan
Bishop (NY)	Chocola	Dunn
Blackburn	Coble	Edwards
Blunt	Cole	Ehlers
Boehlert	Collins	Emanuel
Boehner	Cooper	Emerson
Bonilla	Costello	Engel
Bonner	Cox	English
Bono	Cramer	Evans
Boozman	Crane	Everett
Boswell	Crenshaw	Feeney
Boucher	Cubin	Ferguson

Flake	Latham	Rohrabacher
Foley	LaTourette	Ros-Lehtinen
Forbes	Leach	Rothman
Ford	Levin	Royce
Fossella	Lewis (CA)	Ruppersberger
Frank (MA)	Lewis (KY)	Ryan (OH)
Franks (AZ)	Linder	Ryan (WI)
Frelinghuysen	LoBiondo	Ryun (KS)
Galleghy	Lowey	Sabo
Garrett (NJ)	Lucas (KY)	Sanchez, Loretta
Gerlach	Lucas (OK)	Sanders
Gibbons	Lynch	Schiff
Gillmor	Majette	Schrock
Gingrey	Maloney	Sensenbrenner
Gonzalez	Manzullo	Sessions
Goode	Markey	Shadegg
Goodlatte	Matheson	Shaw
Gordon	Matsui	Shays
Goss	McCarthy (MO)	Sherman
Granger	McCarthy (NY)	Sherwood
Graves	McCotter	Shimkus
Greenwood	McCrery	Shuster
Gutierrez	McGovern	Simmons
Hall	McKeon	Simpson
Harris	Meehan	Skelton
Hart	Menendez	Slaughter
Hastings (WA)	Mica	Smith (MI)
Hayes	Michaud	Smith (NJ)
Hayworth	Miller (FL)	Smith (TX)
Hefley	Miller (MI)	Smith (WA)
Hensarling	Miller, Gary	Snyder
Herger	Miller, George	Souder
Hill	Moore	Stark
Hinojosa	Moran (KS)	Stearns
Hobson	Murphy	Stupak
Hoeffel	Murtha	Sullivan
Hoekstra	Musgrave	Sweeney
Holden	Myrick	Tancred
Hooley (OR)	Nadler	Tanner
Hostettler	Nethercutt	Tauscher
Houghton	Neugebauer	Tauzin
Hoyer	Ney	Taylor (NC)
Hulshof	Northup	Terry
Hunter	Norwood	Thomas
Hyde	Nunes	Thompson (CA)
Inlee	Nussle	Thornberry
Isakson	Osborne	Ose
Israel	Israel	Tiahrt
Issa	Otter	Tiberi
Istook	Oxley	Tierney
Janklow	Pallone	Toomey
Jenkins	Pascarell	Turner (OH)
John	Pearce	Upton
Johnson (CT)	Pelosi	Velazquez
Johnson (IL)	Pence	Vitter
Johnson, Sam	Peterson (MN)	Walden (OR)
Jones (NC)	Peterson (PA)	Walsh
Kanjorski	Pickering	Wamp
Kaptur	Pitts	Watt
Keller	Platts	Waxman
Kelly	Pombo	Weiner
Kennedy (MN)	Pomeroy	Weldon (FL)
Kennedy (RI)	Porter	Weldon (PA)
Kildee	Portman	Weller
Kind	Price (NC)	Wexler
King (IA)	Pryce (OH)	Whitfield
King (NY)	Putnam	Wicker
Kingston	Radanovich	Wilson (NM)
Kirk	Ramstad	Wilson (SC)
Kleczka	Regula	Woolsey
Kline	Rehberg	Wu
Knollenberg	Renzi	Wynn
LaHood	Reynolds	Young (AK)
Langevin	Rogers (AL)	Young (FL)
Larsen (WA)	Rogers (MI)	

NOT VOTING—21

Ackerman	Gutknecht	McIntyre
Bachus	Hastings (FL)	Neal (MA)
Bishop (UT)	Jones (OH)	Paul
Capps	Kilpatrick	Quinn
Deal (GA)	Kolbe	Rangel
Fletcher	Lipinski	Reyes
Gephardt	McInnis	Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1558

Mr. GILCREST and Mr. ABERCROMBIE changed their vote from "no" to "aye."

Mr. MEEHAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. CAPPS. Mr. Chairman, I was not able to be present for the following rollcall vote and would like the RECORD to reflect that I would have voted as follows: Rollcall No. 611—"no."

The CHAIRMAN pro tempore. Are there other amendments?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMMONS) having assumed the chair, Mr. BONILLA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes, pursuant to House Resolution 428 he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1600

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-

minute vote on the passage of H.R. 1829 will be followed by a 5-minute vote on the motion to instruct on H.R. 2660 by the gentlewoman from Connecticut (Ms. DELAURO), the motion to instruct on H.R. 1308 by the gentleman from California (Mr. BECERRA), the motion to instruct on H.R. 1 by the gentlewoman from California (Mrs. CAPPS).

The vote was taken by electronic device, and there were—yeas 350, nays 65, not voting 19, as follows:

[Roll No. 612]

YEAS—350

Abercrombie	DeLay	Johnson (CT)
Aderholt	DeMint	Johnson (IL)
Akin	Deutsch	Johnson, E. B.
Alexander	Diaz-Balart, L.	Johnson, Sam
Allen	Diaz-Balart, M.	Kanjorski
Andrews	Dicks	Kaptur
Baca	Dingell	Keller
Baird	Doggett	Kelly
Baker	Dooley (CA)	Kennedy (MN)
Baldwin	Doolittle	Kennedy (RI)
Ballance	Doyle	Kildee
Ballenger	Dreier	Kind
Barrett (SC)	Duncan	King (IA)
Bartlett (MD)	Dunn	King (NY)
Barton (TX)	Edwards	Kingston
Bass	Ehlers	Kirk
Beauprez	Emanuel	Klecza
Becerra	Emerson	Kline
Bell	Engel	Knollenberg
Bereuter	English	Kolbe
Berkley	Eshoo	Kucinich
Berman	Etheridge	LaHood
Biggett	Evans	Langevin
Bilirakis	Everett	Lantos
Bishop (GA)	Fattah	Larsen (WA)
Bishop (NY)	Feeney	Larson (CT)
Blackburn	Ferguson	Latham
Boehlert	Flake	Leach
Boehner	Foley	Lee
Bonilla	Forbes	Levin
Bonner	Ford	Lewis (CA)
Bono	Fossella	Lewis (KY)
Boozman	Frank (MA)	Linder
Boswell	Franks (AZ)	LoBiondo
Boucher	Frelinghuysen	Lowey
Boyd	Galleghy	Lucas (KY)
Bradley (NH)	Garrett (NJ)	Lynch
Brady (PA)	Gerlach	Majette
Brady (TX)	Gibbons	Maloney
Brown (OH)	Gillmor	Manzullo
Brown (SC)	Gingrey	Markley
Brown, Corrine	Gonzalez	Marshall
Burgess	Goode	Matheson
Burns	Goodlatte	Matsui
Burr	Gordon	McCarthy (MO)
Burton (IN)	Goss	McCarthy (NY)
Buyer	Granger	McCotter
Calvert	Graves	McCrery
Camp	Green (TX)	McDermott
Cannon	Greenwood	McGovern
Cantor	Grijalva	McKeon
Capito	Gutierrez	Meehan
Capps	Hall	Meek (FL)
Cardin	Harman	Meeks (NY)
Carson (IN)	Harris	Menendez
Carson (OK)	Hart	Mica
Carter	Hastings (WA)	Michaud
Chocola	Hayes	Millender-
Clay	Hayworth	McDonald
Coble	Herger	Miller (FL)
Cole	Hill	Miller (MI)
Collins	Hinchey	Miller (NC)
Conyers	Hinojosa	Miller, Gary
Cooper	Hobson	Miller, George
Costello	Hoefel	Moore
Cox	Hoekstra	Moran (KS)
Cramer	Hooley (OR)	Moran (VA)
Crane	Hostettler	Murphy
Crenshaw	Houghton	Murtha
Crowley	Hoyer	Musgrave
Cubin	Hulshof	Myrick
Culberson	Inslee	Nadler
Cummings	Isakson	Napolitano
Cunningham	Israel	Nethercutt
Davis (AL)	Istook	Neugebauer
Davis (FL)	Jackson-Lee	Ney
Davis (TN)	(TX)	Northup
Davis, Jo Ann	Janklow	Norwood
Davis, Tom	Jefferson	Nunes
DeFazio	Jenkins	Nussle
DeLauro	John	Olver

Osborne	Ryan (WI)	Terry
Ose	Ryun (KS)	Thomas
Otter	Sanchez, Linda	Thompson (CA)
Oxley	T.	Thornberry
Pallone	Sanders	Tiahrt
Pascarell	Sandlin	Tiberi
Pastor	Schakowsky	Tierney
Pearce	Schiff	Toomey
Pelosi	Schrock	Turner (OH)
Pence	Sensenbrenner	Udall (CO)
Peterson (MN)	Sessions	Udall (NM)
Pickering	Shadegg	Upton
Pitts	Shaw	Van Hollen
Platts	Shays	Velazquez
Pombo	Sherman	Visclosky
Pomeroy	Shuster	Vitter
Porter	Simmons	Walden (OR)
Portman	Simpson	Walsh
Price (NC)	Skelton	Wamp
Pryce (OH)	Slaughter	Watson
Putnam	Smith (MI)	Watt
Quinn	Smith (TX)	Waxman
Radanovich	Smith (WA)	Weiner
Ramstad	Snyder	Weldon (FL)
Regula	Solis	Weldon (PA)
Rehberg	Souder	Weller
Reynolds	Stark	Wexler
Rodriguez	Stearns	Whitfield
Rogers (AL)	Stenholm	Wicker
Rogers (MI)	Strickland	Wilson (NM)
Rohrabacher	Stupak	Wilson (SC)
Ros-Lehtinen	Sullivan	Woolsey
Rothman	Sweeney	Wu
Roybal-Allard	Tanner	Wynn
Royce	Tauscher	Young (AK)
Ruppersberger	Tauzin	Young (FL)
Ryan (OH)	Taylor (NC)	

NAYS—65

Berry	Holden	Petri
Blumenauer	Holt	Rahall
Blunt	Honda	Renzi
Brown-Waite,	Hunter	Rogers (KY)
Ginny	Hyde	Ross
Capuano	Issa	Rush
Cardoza	Jackson (IL)	Sabo
Case	Jones (NC)	Sanchez, Loretta
Castle	Lampson	Saxton
Chabot	LaTourette	Scott (GA)
Clyburn	Lewis (GA)	Scott (VA)
Davis (CA)	Lofgren	Serrano
Davis (IL)	Lucas (OK)	Sherwood
DeGette	McCollum	Shimkus
Delahunt	McHugh	Smith (NJ)
Farr	McNulty	Spratt
Filner	Mollohan	Tancredo
Frost	Oberstar	Taylor (MS)
Gilchrest	Obey	Thompson (MS)
Green (WI)	Owens	Turner (TX)
Hefley	Payne	Waters
Hensarling	Peterson (PA)	Wolf

NOT VOTING—19

Ackerman	Hastings (FL)	Ortiz
Bachus	Jones (OH)	Paul
Bishop (UT)	Kilpatrick	Rangel
Deal (GA)	Lipinski	Reyes
Fletcher	McInnis	Towns
Gephardt	McIntyre	
Gutknecht	Neal (MA)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS) (during the vote). Members are advised 2 minutes remain to cast their votes.

□ 1617

Ms. ROYBAL-ALLARD and Mrs. NAPOLITANO changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The remaining votes will be taken in the following order:

Motion to instruct on H.R. 2660, motion to instruct on H.R. 1308, motion to instruct on H.R. 1.

All will be the yeas and nays, and all will be 5-minute votes.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 2660 offered by the gentlewoman from Connecticut (Ms. DELAURO), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentlewoman from Connecticut (Ms. DELAURO).

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 310, nays 101, not voting 23, as follows:

[Roll No. 613]

YEAS—310

Abercrombie	Crowley	Hill
Aderholt	Cummings	Hinchey
Akin	Cunningham	Hinojosa
Alexander	Davis (AL)	Hoefel
Allen	Davis (CA)	Holden
Andrews	Davis (FL)	Holt
Baca	Davis (IL)	Honda
Baird	Davis (TN)	Hooley (OR)
Baldwin	Davis, Jo Ann	Houghton
Ballance	Davis, Tom	Hoyer
Bass	DeFazio	Hulshof
Beauprez	DeGette	Hunter
Becerra	Delahunt	Hyde
Bell	DeLauro	Inslee
Bereuter	Deutsch	Israel
Berkley	Diaz-Balart, L.	Issa
Berman	Diaz-Balart, M.	Jackson (IL)
Berry	Dicks	Jackson-Lee
Bilirakis	Dingell	(TX)
Bishop (GA)	Doggett	Janklow
Bishop (NY)	Doyle	Jefferson
Blumenauer	Dunn	John
Boehlert	Edwards	Johnson (CT)
Bono	Ehlers	Johnson (IL)
Boozman	Emanuel	Johnson, E. B.
Boswell	Engel	Jones (NC)
Boucher	English	Kanjorski
Boyd	Eshoo	Kaptur
Bradley (NH)	Etheridge	Keller
Brady (PA)	Evans	Kelly
Brown (OH)	Everett	Kennedy (MN)
Brown (SC)	Farr	Kennedy (RI)
Brown, Corrine	Fattah	Kildee
Brown-Waite,	Ferguson	Kind
Ginny	Filner	King (NY)
Burns	Foley	Kirk
Burr	Forbes	Klecza
Burton (IN)	Ford	Kline
Calvert	Fossella	Kucinich
Camp	Frank (MA)	LaHood
Capito	Frost	Lampson
Capps	Gerlach	Langevin
Capuano	Gibbons	Lantos
Cardin	Gillmor	Larsen (WA)
Cardoza	Gingrey	Larson (CT)
Carson (IN)	Gonzalez	Latham
Carson (OK)	Gordon	Leach
Case	Graves	Lee
Castle	Green (TX)	Levin
Clay	Green (WI)	Lewis (GA)
Clyburn	Greenwood	LoBiondo
Coble	Grijalva	Lofgren
Conyers	Gutierrez	Lowey
Cooper	Hall	Lucas (KY)
Costello	Harman	Lucas (OK)
Cox	Harris	Lynch
Cramer	Hayes	Majette
Crenshaw	Hayworth	Maloney

□ 1626

Mr. ADERHOLT, Ms. BALDWIN and Mr. AKIN changed their vote from “nay” to “yea.”

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt

Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)

Upton
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-
McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Nethercutt
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Owens
Pallone
Pascrell

Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Rahall
Ramstad
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman

Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiahrt
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NAYS—101

Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggart
Blackburn
Blunt
Boehner
Bonilla
Bonner
Brady (TX)
Burgess
Buyer
Cannon
Cantor
Carter
Chabot
Chocola
Cole
Collins
Crane
Cubin
Culberson
DeLay
DeMint
Doolittle
Dreier
Duncan
Emerson
Feeney
Flake
Franks (AZ)
Frelinghuysen

Gallegly
Garrett (NJ)
Gilchrist
Goode
Goodlatte
Granger
Hart
Hastings (WA)
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Isakson
Istook
Jenkins
Johnson, Sam
King (IA)
Kingston
Knollenberg
Kolbe
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Miller (MI)
Musgrave
Myrick
Neugebauer
Ney
Northup
Otter
Oxley

Pearce
Pence
Peterson (PA)
Pitts
Portman
Pryce (OH)
Radanovich
Regula
Rogers (KY)
Royce
Sensenbrenner
Shadegg
Sherwood
Simpson
Soudier
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Vitter
Wamp
Weldon (FL)
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—23

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Dooley (CA)
Fletcher
Gephardt
Goss

Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Lipinski
McInnis
McIntyre
Neal (MA)

Ortiz
Paul
Rangel
Reyes
Sabo
Smith (MI)
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have 2 minutes to cast their votes.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 1308 offered by the gentleman from California (Mr. BECERRA), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from California (Mr. BECERRA).

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 197, nays 207, not voting 30, as follows:

[Roll No. 614]

YEAS—197

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards

Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Klecza
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey

Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda
T.
Sanchez, Loretta
Sanders

Aderholt
Akin
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggart
Bilirakis
Blackburn
Blunt
Boehler
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons

NAYS—207

Gilchrist
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter

Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Soudier
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—30

Ackerman
Bachus
Bishop (UT)
Crane
Deal (GA)
Dooley (CA)
Fletcher
Gephardt
Goss
Gutknecht

Hastings (FL)
Hefley
Jenkins
Jones (OH)
Kilpatrick
Larsen (WA)
Linder
Lipinski
McInnis
McIntyre

Neal (MA)
Ortiz
Paul
Pryce (OH)
Rangel
Reyes
Smith (TX)
Taylor (NC)
Towns
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1634

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 1 offered by the gentlewoman from California (Mrs. CAPPS), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Mrs. CAPPS).

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 197, nays 209, not voting 28, as follows:

[Roll No. 615]

YEAS—197

Abercrombie	Edwards	Lewis (GA)
Alexander	Emanuel	Lofgren
Allen	Engel	Lowey
Andrews	Eshoo	Lucas (KY)
Baca	Etheridge	Lynch
Baird	Evans	Majette
Baldwin	Farr	Maloney
Ballance	Fattah	Markey
Becerra	Filner	Marshall
Bell	Ford	Matheson
Berkley	Frank (MA)	Matsui
Berman	Frost	McCarthy (MO)
Berry	Gonzalez	McCarthy (NY)
Bishop (GA)	Gordon	McCollum
Bishop (NY)	Green (TX)	McDermott
Blumenauer	Grijalva	McGovern
Boehrlert	Hall	McHugh
Boswell	Harman	McNulty
Boucher	Hill	Meehan
Boyd	Hinche	Meek (FL)
Brady (PA)	Hinojosa	Meeks (NY)
Brown (OH)	Hoeffel	Menendez
Brown, Corrine	Holden	Michaud
Capps	Holt	Millender
Capuano	Honda	McDonald
Cardin	Hooley (OR)	Miller (NC)
Cardoza	Hoyer	Miller, George
Carson (IN)	Inslee	Mollohan
Carson (OK)	Israel	Moore
Case	Jackson (IL)	Moran (VA)
Clay	Jackson-Lee	Murtha
Clyburn	(TX)	Nadler
Conyers	Janklow	Napolitano
Cooper	Jefferson	Norwood
Costello	John	Oberstar
Cramer	Johnson, E. B.	Obey
Crowley	Kanjorski	Olver
Cummings	Kaptur	Owens
Davis (AL)	Kennedy (RI)	Pallone
Davis (CA)	Kildee	Pascrell
Davis (FL)	Kind	Pastor
Davis (IL)	Kleczka	Payne
Davis (TN)	Kucinich	Pelosi
DeFazio	LaHood	Pomeroy
DeGette	Lampson	Price (NC)
Delahunt	Langevin	Quinn
DeLauro	Lantos	Rahall
Deutsch	Larsen (WA)	Rodriguez
Dicks	Larson (CT)	Ross
Dingell	Leach	Rothman
Doggett	Lee	Roybal-Allard
Doyle	Levin	Ruppersberger

Rush
Ryan (OH)
Sabo
Sanchez, Linda
T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton

Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney

Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1642

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GUTIERREZ. Mr. Speaker, I was inadvertently absent from this Chamber today, November 6, 2003, and missed rollcall vote 615. I would like the Record to show that, had I been present in this Chamber, I would have voted "yea."

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, due to personal business, I was unable to record my vote on four votes ordered for today. Had I been present I would have voted "no" on the amendment offered by Representative GREEN to H.R. 1829, rollcall No. 610; "no" on the amendment offered by Representative JACKSON-LEE to H.R. 1829, rollcall No. 611; "aye" on final passage of H.R. 1829, the Federal Prisons Industries Act, rollcall No. 612; and "aye" on the motion offered by Representative DELAURO to instruct conferees to H.R. 2660, the bill making appropriations for the Departments of Labor, Health and Human Services and Education for Fiscal Year 2004, rollcall No. 613; on the motion to instruct; "aye" on the motion offered by Representative BECERRA to instruct conferees to H.R. 1308, child tax credit legislation, rollcall No. 614; and "aye" on the motion offered by Representative CAPPS to instruct conferees on H.R. 1, Medicare reform legislation, rollcall No. 615.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Speaker, on rollcall Nos. 613, 614, and 615, I was unavoidably detained. Had I been present, I would have voted "nay" on all 3 motions.

AUTHORIZING VISITOR CENTER FOR VIETNAM VETERANS MEMORIAL

Mr. POMBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1442) to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

TITLE I—VIETNAM VETERANS MEMORIAL VISITOR CENTER

SEC. 101. VISITOR CENTER

Public Law 96-297 (16 U.S.C. 431 note) is amended by adding at the end the following:

"SEC. 6. VISITOR CENTER.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—The Vietnam Veterans Memorial Fund, Inc., is authorized to construct a

Aderholt
Akin
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly

NAYS—209

Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCotter
McCrery
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—28

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Dooley (CA)
Fletcher
Gephardt
Goss
McInnis
McIntyre
Neal (MA)
Harris
Hastings (FL)
Jenkins
Jones (OH)
Kilpatrick
Lipinski
Manzullo
McInnis
McIntyre
Neal (MA)

visitor center at or near the Vietnam Veterans Memorial on Federal land in the District of Columbia, or its environs, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial and the Vietnam War.

“(2) LOCATION.—The visitor center shall be located underground.

“(3) CONSULTATION ON DESIGN PHASE.—The Vietnam Veterans Memorial Fund, Inc. shall consult with educators, veterans groups, and the National Park Service in developing the proposed design of the visitor center.

“(b) COMPLIANCE WITH STANDARDS APPLICABLE TO COMMEMORATIVE WORKS.—Chapter 89 of title 40, United States Code, shall apply, including provisions related to the siting, design, construction, and maintenance of the visitor center, and the visitor center shall be considered a commemorative work for the purposes of that Act, except that—

“(1) final approval of the visitor center shall not be withheld;

“(2) the provisions of subsections (b) and (c) of section 8908 of title 40, United States Code, requiring further approval by law for the location of a commemorative work within Area I and prohibiting the siting of a visitor center within the Reserve shall not apply;

“(3) the size of the visitor center shall be limited to the minimum necessary—

“(A) to provide for appropriate educational and interpretive functions; and

“(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall; and

“(4) the visitor center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.

“(c) OPERATION AND MAINTENANCE.—

“(1) IN GENERAL.—The Secretary of the Interior shall—

“(A) operate and maintain the visitor center, except that the Secretary shall enter into a written agreement with the Vietnam Veterans Memorial Fund, Inc. for specified maintenance needs of the visitor center, as determined by the Secretary; and

“(B) as soon as practicable, in consultation with educators and veterans groups, develop a written interpretive plan for the visitor center in accordance with National Park Service policy.

“(2) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—Paragraph (1)(A) does not waive the requirements of section 8906(b) of title 40, United States Code, with respect to the visitor center.

“(d) FUNDING.—The Vietnam Veterans Memorial Fund, Inc. shall be solely responsible for acceptance of contributions for, and payment of expenses of, the establishment of the visitor center. No Federal funds shall be used to pay any expense of the establishment of the visitor center.”

TITLE II—COMMEMORATIVE WORKS

SEC. 201. SHORT TITLE.

This title may be cited as the “Commemorative Works Clarification and Revision Act of 2003”.

SEC. 202. ESTABLISHMENT OF RESERVE.

(a) FINDINGS.—Congress finds that—

(1) the great cross-axis of the Mall in the District of Columbia, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, is a substantially completed work of civic art; and

(2) to preserve the integrity of the Mall, a reserve area should be designated within the core of the great cross-axis of the Mall where the siting of new commemorative works is prohibited.

(b) RESERVE.—Section 8908 of title 40, United States Code, is amended by adding at the end the following:

“(c) RESERVE.—After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work or visitor center shall be located within the Reserve.”

SEC. 203. CLARIFYING AND CONFORMING AMENDMENTS.

(a) PURPOSES.—Section 8901(2) of title 40, United States Code, is amended by striking “Columbia;” and inserting “Columbia and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;”

(b) DEFINITIONS.—Section 8902 of title 40, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) DEFINITIONS.—In this chapter:

“(1) COMMEMORATIVE WORK.—The term ‘commemorative work’ means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes.

“(2) THE DISTRICT OF COLUMBIA AND ITS ENVIRONS.—The term ‘the District of Columbia and its environs’ means those lands and properties administered by the National Park Service and the General Services Administration located in the Reserve, Area I, and Area II as depicted on the map entitled ‘Commemorative Areas Washington, DC and Environs’, numbered 869/86501 B, and dated June 24, 2003.

“(3) RESERVE.—The term ‘Reserve’ means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map referenced in paragraph (2).

“(4) SPONSOR.—The term ‘sponsor’ means a public agency, or an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs.”

(c) AUTHORIZATION.—Section 8903 of title 40, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “work commemorating a lesser conflict” and inserting “work solely commemorating a limited military engagement”; and

(B) by striking “the event” and inserting “such war or conflict”;

(2) in subsection (d)—

(A) by striking “CONSULTATION WITH NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.—” and inserting “CONSULTATION WITH NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.—”;

(B) by striking “House Administration” and inserting “Resources”; and

(C) by inserting “Advisory” before “Commission”; and

(3) by striking subsection (e) and inserting the following:

“(e) EXPIRATION OF LEGISLATIVE AUTHORITY.—Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I, if such additional authority has been granted, unless—

“(1) the Secretary of the Interior or the Administrator of General Services (as appropriate) has issued a construction permit for the commemorative work during that period; or

“(2) the Secretary or the Administrator (as appropriate), in consultation with the National Capital Memorial Advisory Commission, has made a determination that—

“(A) final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts; and

“(B) 75 percent of the amount estimated to be required to complete the commemorative work has been raised.

If these two conditions have been met, the Secretary or the Administrator (as appropriate) may extend the seven-year legislative authority for a period not to exceed three additional years. Upon expiration of the legislative authority, any previous site and design approvals shall also expire.”

(d) NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.—Section 8904 of title 40, United States Code, is amended—

(1) in the heading, by inserting “Advisory” before “Commission”;

(2) in subsection (a), by striking “There is a National” and all that follows through “consists of” and inserting the following: “There is established the National Capital Memorial Advisory Commission, which shall be composed of”;

(3) in subsection (c)—

(A) by inserting “Advisory” before “Commission”;

(B) by striking “Services” and inserting “Services (as appropriate)”;

(4) in subsection (d) by inserting “Advisory” before “Commission”;

(e) SITE AND DESIGN APPROVAL.—Section 8905 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “person” each place it appears and inserting “sponsor”; and

(B) in paragraph (1)—

(i) by inserting “Advisory” before “Commission”; and

(ii) by striking “designs” and inserting “design concepts”;

(2) in subsection (b)—

(A) by striking “Secretary, and Administrator” and inserting “and the Secretary or Administrator (as appropriate)”; and

(B) in paragraph (2)(B), by striking, “open space and existing public use.” and inserting “open space, existing public use, and cultural and natural resources.”

(f) CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT.—Section 8906 of title 40, United States Code, is amended—

(1) in subsection (a)(3) and (a)(4) by striking “person” and inserting “sponsor”; and

(2) by striking subsection (b) and inserting the following:

“(b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—

“(1) In addition to the criteria described above in subsection (a), no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such amounts shall be available for those purposes pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

“(2) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

“(3) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 shall be credited to a separate account with the National Park Foundation.

“(4) Upon request of the Secretary or Administrator (as appropriate), the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative

work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (2) or (3). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended."

(g) AREAS I AND II.—Section 8908(a) of title 40, United States Code, is amended—

(1) by striking "Secretary of the Interior and Administrator of General Services" and inserting "Secretary of the Interior or the Administrator of General Services (as appropriate)"; and

(2) by striking "numbered 869/86581, and dated May 1, 1986" and inserting "entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003".

SEC. 204. SITE AND DESIGN CRITERIA.

Section 8905(b) of title 40, United States Code (as amended by section 203(e)), is amended by adding at the end the following:

"(5) MUSEUMS.—No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in section 8902(2).

"(6) SITE-SPECIFIC GUIDELINES.—The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this chapter.

"(7) DONOR CONTRIBUTIONS.—Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site."

SEC. 205. NO EFFECT ON PREVIOUSLY APPROVED SITES.

Except for the provision in the amendment made by section 202(b) prohibiting a visitor center from being located in the Reserve (as defined in section 8902 of title 40, United States Code), nothing in this title shall apply to a commemorative work for which a site was approved in accordance with chapter 89 of title 40, United States Code, prior to the date of enactment of this title.

SEC. 206. NATIONAL PARK SERVICE REPORTS.

Within six months after the date of enactment of this title, the Secretary of the Interior, in consultation with the National Capital Planning Commission and the Commission of Fine Arts, shall submit to the Committee on Energy and Natural Resources of the United States Senate, and to the Committee on Resources of the United States House of Representatives reports setting forth plans for the following:

(1) To relocate, as soon as practicable after the date of enactment of this Act, the National Park Service's stable and maintenance facilities that are within the Reserve (as defined in section 8902 of title 40, United States Code).

(2) To relocate, redesign or otherwise alter the concession facilities that are within the Reserve to the extent necessary to make them compatible with the Reserve's character.

(3) To limit the sale or distribution of permitted merchandise to those areas where such activities are less intrusive upon the Reserve, and to relocate any existing sale or distribution structures that would otherwise be inconsistent with the plan.

(4) To make other appropriate changes, if any, to protect the character of the Reserve.

Mr. POMBO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was unavoidably detained in my district on November 4. On rollcall vote 603, H. Con. Res. 94, if I had been present, I would have voted aye.

I was unavoidably detained in my district on November 4. For rollcall vote 602, H. Con. Res. 176, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 609, H.R. 3365, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 608, H.R. 3214, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 607, H.R. 2620, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 606, H.R. 2559, had I been present, I would have voted aye.

I was unavoidably detained in my district on November 5. On rollcall vote 605, H.J. Res. 76, had I been present, I would have voted aye.

On November 5, rollcall vote 604, H.R. 2443, I was detained in my district on official business. If I had been present, I would have voted aye.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

□ 1645

APPOINTMENT OF CONFEREES ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

Mr. OXLEY. Mr. Speaker, by direction of the Committee on Financial Services and pursuant to clause 1 of rule XXII of the rules of the House of Representatives for the 108th Congress, I move to take from the Speaker's table the bill (H.R. 2622) to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. SIMMONS). The gentleman from Ohio (Mr. OXLEY) is recognized for 1 hour.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a simple motion to get us into conference with the Senate on H.R. 2622, the Fair and Accurate Credit Transactions Act, which the Senate passed yesterday. We have a lot of work to do in a short amount of time.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY).

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. FRANK of Massachusetts

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2622 be instructed as follows:

1. That the House conferees insist that section 304 of the House bill relating to the duties of furnishers of information be included in the conference report.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Ohio (Mr. OXLEY) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should inform the membership that it is the earnest hope and, indeed, intention of the gentleman from Ohio and myself to control most of those 30 minutes apiece somewhere else other than on the floor of this House.

I very much appreciated the ability to work with the chairman. We had a difficult issue, the fair credit bill. It is not everything I would have liked to have seen. It is different than it would have been if our side was in the majority. But nevertheless it was a genuinely legislated bill. There was give and take. It is, I think, an improvement over current law. The other body has also passed a bill which has similar characteristics. It is an eminently conferencable bill because both Houses have legislated on similar subjects not in diametrically opposite ways, but in similar ways.

This instruction motion, and we have discussed this with the majority side, has been cut down, as a clever deduction would lead you to believe, since if you read the instruction motion, it consists of a paragraph numbered 1. Ordinarily one does not number a paragraph 1 unless one has a 2. We did have

a 2; it has gone in the interest of conciliation and compromise, so we now have one. And it is that the House stick by its position on a very important subject, and I appreciate the gentleman from Ohio's support on this.

What we have done in this bill, in both bodies, is to increase the information to consumers about credit reports. We have in various ways, by increasing the flow of information, given the consumers a better chance to know what is being said about them. But there was one flaw that came to me as I read the volumes of testimony that we got, namely, there was a problem with the input of the information at the outset, the accuracy. What we have is, in the law, a very low standard of care that the initial furnishers of the information have to have.

I understand they are having problems. We are not trying to overburden them. Indeed, I have talked to the gentleman from California (Mr. ROYCE) about some ways later on to modify this to keep people from being flooded; but essentially what the motion says is that we stick by the language in our bill that makes it easier, if you get this information and it tells you that there was some inaccuracy about you, this bill, this language, makes it easier for you to get that corrected. It means that you are entitled to more cooperation than under current law to get inaccurate information about you corrected. That is what we do. I appreciate the gentleman from Ohio's support.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. OXLEY. I thank my friend from Massachusetts for yielding.

Mr. Speaker, let me say to my good friend that this is a bill that passed this House a few weeks ago with, I think, 392 votes and had strong bipartisan support because of the work that the committee did in working with all sectors of the committee on this important issue. All of us know that we need to reauthorize the Fair Credit Reporting Act by the end of this year, and so time is of the essence. I am prepared to not only associate myself with the remarks of the gentleman from Massachusetts but also to support his motion to instruct.

Mr. MOORE. Mr. Speaker, I rise in support of the motion to instruct conferees being offered by the ranking Democratic member of the financial Services Committee, Mr. FRANK. As a member of that committee, I was deeply involved in the drafting and consideration of the Fair and Accurate Credit Transactions Act.

I was pleased to join with my colleagues, Representatives BACHUS, HOOLEY and BIGGERT, in introducing this bipartisan measure. This bill was approved in subcommittee on a vote of 41-0, in full committee by a vote of 63-3 and by the full House by a vote of 392-30 with one voting present. Earlier this week, the Senate approved a similar version of this bill by 95-2.

Mr. Speaker, this is the way Congress should work. This is the way our constituents

want us to conduct their business. Consideration of this bill consistently has been bipartisan and thoughtful. All members of the committee with opinions and proposals on the issues raised by H.R. 2622 were able to offer amendments and participate in debate. The way in which this measure was handled made this a stronger piece of legislation than the version we introduced. I commend our committee's leadership, Chairman OXLEY and Ranking Democrat FRANK, for making this proposal.

The instructions before us today urge the conferees to agree to provisions in the House bill that will enhance the accuracy of information which creditors, retailers and other furnishers of information provide to consumer reporting agencies. They also add new requirements that provide consumers with an additional option to correct their consumer files by disputing information directly with individual furnishers of that information.

Mr. Speaker, the problems of inaccurate and incomplete information that plague the current credit reporting system are of great personal concern to those of our constituents who have suffered them. I'm sure each of us could relate instances involving constituents who have faced tremendous difficulty and aggravation in correcting inaccurate credit histories.

This legislation directly addresses these very real problems faced by people every day of the year. The provisions of the motion to instruct will ensure that the new law does so meaningfully.

Our credit system is the envy of every other country in the world. Our country, overall, does an excellent job of making credit available quickly and fairly to consumers and businesses. Enactment of H.R. 2622 will preserve and strengthen this system. I urge my colleagues to support the Frank motion and to support the conference report that should be before us within a few weeks.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. FRANK).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: For consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. OXLEY, BEREUTER, BACHUS, CASTLE, ROYCE, NEY, Mrs. KELLY, Mr. GILLMOR, Mr. LATOURETTE, Mrs. BIGGERT, Messrs. SESSIONS, FRANK of Massachusetts, KANJORSKI, SANDERS, Ms. WATERS, Mr. WATT, Mr. GUTIERREZ, Ms. HOOLEY of Oregon and Mr. MOORE.

There was no objection.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the motion to go to conference and the motion to instruct on the bill, H.R. 2622, and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. BELL. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BELL moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the highest funding levels possible for the National Institutes of Health.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Texas (Mr. BELL) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BELL).

Mr. BELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to address an issue that affects every Member in the House as well as every American that we speak for in this body. I am talking about the future health of our Nation and our commitment as a society to cure disease, end suffering, and improve the quality of life for our fellow citizens.

Disease does not discriminate in America. It is not partisan. It takes as its victims men and women of every race and ethnicity, every socioeconomic bracket, rich or poor, Republican or Democrat, young or old. Disease can strike anyone: cancer, Alzheimer's, Parkinson's, AIDS, diabetes, depression, ALS, multiple sclerosis, sickle-cell anemia, heart disease. The most talented, the most brilliant, the most loving and the most giving people in the world have been and continue to be victims of these baffling diseases. These are diseases that have affected America's best and brightest.

Health is the principal building block to our Nation's wealth and welfare. Our ability to produce, create, innovate, contribute, and lead this great country through the next generations and the true measure of greatness of our free society which promises life, liberty and the pursuit of happiness are in large part dependent on the commitment we in the United States Congress make to the future of health and science research and discovery. I am talking about the funding level this body determines for the National Institutes of Health, or NIH as it is known.

As all of my colleagues know, what began as a one-room laboratory of hygiene in 1887 is now today one of the world's foremost medical research centers. The National Institutes of Health is the steward of medical and behavioral research for our Nation. The NIH provides leadership and direction to programs designed to improve the health of the Nation by conducting and supporting research in the causes, diagnosis, prevention, and cure of human diseases.

Because we have invested in the NIH, it is estimated that 62,000 HIV-related deaths were prevented in the year 2000, 241,000 stroke-related deaths were prevented in the year 2000, and 815,000 coronary heart-related disease deaths were prevented in the year 2000. In cancer research alone, in childhood leukemia, the cure rate has reached 80 percent as a result of a host of new drugs. Testicular cancer now has a 91 percent cure rate, and for prostate cancer, the annual death rates have been reduced by 28 percent. Ovarian cancer can now be diagnosed through a simple blood screening. We now have the wonderful new drug Tamoxifen to treat breast cancer.

The proposal for fiscal year 2004 would be the smallest percentage increase for NIH in 18 years and a sharp deceleration from the 15 percent annual increases that NIH received in recent years under the bipartisan program to double the medical research budget. The House-passed version of the fiscal year 2004 Labor-HHS-Education Appropriations Act provides an increase of just 2.5 percent, which translates into \$682 million, an increase that may not even keep up with the rate of inflation. The bottom line is, if there is a cure, the NIH will most likely find it. We must give them the proper resources to do their job.

This is not a partisan issue. This is our issue, yours and mine. I know I am not the only one that feels this way. I know that I am joined by my friends on both sides of the aisle. In fact, I am proud to say that I was joined by 213 of my colleagues in the House, both Democrats and Republicans, in sending a letter to the conferees urging them to provide the highest level of funding possible for the NIH. Therefore, it is my hope that we can continue to move forward on this issue in a bipartisan fashion, which is why I hope the leadership of both parties and my fellow colleagues on both sides of the aisle will all join me in voting for this motion to instruct on a matter I believe a majority of this body already supports. It is just too important to all of us here and to all Americans for us to ignore.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I am pleased today to rise to discuss the

funding the Committee on Appropriations has provided to the National Institutes of Health and respond to the motion to instruct from the gentleman from Texas. I think all Members of the House have been touched by a family member or constituent with a heart-wrenching medical problem who turned to the research supported by NIH as their hope for recovery or relief from pain.

The fiscal year 2004 appropriation bills passed by the House and Senate continue the tradition of congressional support. The House bill provides almost a \$700 million increase for NIH, one of the largest program increases in the bill and the largest increase in the Department of Health and Human Services. This comes on the heels of completing the doubling of funding for NIH over a 5-year period, from \$13.7 billion to \$27 billion in the short span of 5 years.

□ 1700

I think the chart we have here tells the story very eloquently. We can see on the bar graph how much since 1996 NIH funding has increased through the doubling mechanism, and it is very substantially more than it was when the Republicans took over. It was \$13 billion. Now, it is \$27 billion. And I think it shows the commitment of the majority party to NIH. Yes, it is a little bit less than the doubling era, but we cannot continue that; we do not have the resources, but it still provides an increase in new grants and the highest total level of grants in NIH's history. And because NIH had more than a \$1 billion of one-time costs in fiscal year 2003 that can be converted to research funding in fiscal year 2004, the real increase for NIH is more than 6 percent, that is, for research programs, a level in line with most annual increases prior to the doubling.

I am confident that Dr. Zerhouni, the new director of NIH, will lead the agency on a productive new path in the postdoubling era. I am enthused about the "road map" he has unveiled after extensive consultation with the research community. Of course, we would all like to provide Dr. Zerhouni with the highest possible funding level in conference, and I am confident we will do that. I intend to support the gentleman's motion. I think the House has already demonstrated that they want to do it with the highest possible funding level in light of the resources made available to us as the Committee on Appropriations, and I have no quarrel with the gentleman and I know that we will, in conference, try to reach the highest funding level that is possible because NIH is an extremely important resource of this Nation. They have done great work over the years, and we are very supportive of them both in our subcommittee and the Committee on Appropriations and in conference.

Mr. Speaker, I reserve the balance of my time.

Mr. BELL. Mr. Speaker, I yield myself 1 minute.

I would like to thank the gentleman from Ohio for his support for the motion to instruct. And all I would like to say in response is that I hope that he will join me in trying to urge the conferees to look for the highest level of funding possible. In that 2.5 percent, while it may be a little bit more money, the rate of inflation is predicted to be 3.3 percent. So one could make the argument that this will be a net decrease and it will have a dramatic impact on the following diseases: cancer, Parkinson's, Alzheimer's, heart disease, HIV/AIDS, depression and mental illness, diabetes, dental diseases, measles, ALS, kidney disease, genome research.

Everybody knows the incredible need that we face, and I very much appreciate the gentleman from Ohio's recognizing that, and, hopefully, we can get a much higher level of funding from the conferees.

Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to say that I rise in strong support of the Bell motion to instruct conferees on the Labor, Health and Human Services and Education Appropriations bill to increase funding for the National Institutes of Health to the highest level possible.

Mr. Speaker, I was proud to be a part of the Congress that worked together with Presidents Clinton and Bush to double the budget of the NIH between 1998 and 2003. I want to especially commend the gentleman from Ohio (Chairman REGULA) and the ranking member for their leadership on this issue.

The growth during those years has already yielded amazing results, and we are just beginning to see the fruits of that landmark achievement. Everyone agrees this investment in the future of medicine was the right decision to make for America and, indeed, for the world.

The outcomes of these cutting-edge projects are opportunities for us to understand diseases, improve health, and open the doors to future progress through the application of scientific research. We are on the road to obtaining the knowledge we need to more fully understand and ultimately control or defeat cancer, Parkinson's disease, diabetes, paralysis, and many other diseases and conditions. These projects also play a key role in preparing the Nation for incidents of bioterrorism.

Given how far we have come in this remarkable bipartisan effort, I am extremely disappointed that the Labor, Health and Human Services and Education Appropriations bill by the House this year contained a margin of increase that inconsistent with all that we have accomplished in recent years.

The House-passed increase of 2.5 percent would be the smallest percentage increase in 18 years, as aptly pointed out by my colleague, and would fail to sustain these projects that have only just begun. In fact, 2.5 percent falls far short of what is needed merely to keep up with inflation, again, pointed out by my colleague. Experts in the research field have made it clear to me that they need an estimated 8 to 10 percent increase in funding to renew the many ongoing multi-year research projects, while encouraging new research projects and exploring new ideas and avenues of inquiry.

Mr. Speaker, we must do all we can to encourage younger physicians and scientists interested in medical research careers to use their talents for the greater good. Millions of Americans now suffering with diseases and illnesses deserve our continued commitment to new research and ultimately to a cure. To that end, Mr. Speaker, I urge all of my colleagues to vote in favor of the Bell motion to instruct. I commend my colleague for offering the motion.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. SHAW), a strong booster of the NIH.

Mr. SHAW. Mr. Speaker, I rise in very strong support for the motion to instruct. I think through the years in all the years that I have been in Congress, we have seen great bipartisan support when it comes to the National Institutes of Health, and it is because we are getting so close so many breakthroughs. Cures for cancer, cures for diabetes, the list goes on and on and on, and we are going to improve the quality of life for so many people throughout the world, and we are going to also extend the life of so many people.

When we look at the tremendous breakthroughs that we have had with diseases such as cancer, I myself was a victim of cancer, and it was, I think, probably the most dangerous cancer one can have, and that is cancer of the lungs. We do not spend nearly enough on lung cancer research. We need to do a much better job. We need to do more. Lung cancer kills more people than the next three combined, and this means we need to get moving over into that direction.

I asked the question once why do we not spend more on lung cancer? And one of the answers I got was that there are so few survivors that push for this and for more and more research in this area. And we get another answer: It is caused by smoking. I had not smoked in 30 years, and the type of cancer I had of the lung is the nonsmoking type of cancer. But early detection and this research is the key to wiping out all of these diseases.

My prognosis is very good. I get regular checkups, and I will be fine. But there are so many out there that are suffering, that the clock is ticking and their life is very limited, and I just lost

two of my good friends in Ft. Lauderdale to lung cancer within the last year. And I was giving the eulogy for a very dear friend of mine only 2 months after my operation; she died of lung cancer. It is a terrible disease. We are so close to unlocking all these secrets, and we are so close to being able to offer more and more early detection with all the wonderful breakthroughs that we have had.

So I compliment the chairman and the gentleman from Texas (Mr. BELL) on the motion to instruct. I am sure that it will get wide bipartisan support, and I also want to applaud the tremendous increases in funding that we have had over the years. I think that shows that the Congress does definitely care. We are concerned about the life and the health of all Americans and people throughout the world who all benefit from the wonderful research that goes on at NIH.

Mr. BELL. Mr. Speaker, I yield myself 15 seconds.

I just want to thank the gentleman from Florida for his comments and evidencing the strong bipartisan support that this motion to instruct does enjoy.

Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I rise to support the motion of my colleague from Texas and thank him for his leadership on this issue.

If there is anything that we as a Nation ought to be able to agree on, it is our common resolve to fight and overcome the scourge of disease and disability. This is not a Democratic issue. This is not a Republican issue. It is an American issue. It is really a human issue. And I want to commend the gentleman from Ohio (Mr. REGULA) and the others who on a bipartisan basis over the years have helped double and really make a commitment to this issue.

There are literally tens of thousands of our fellow citizens and their families waiting today, right now as we are talking on this floor, for a cure or a treatment or a breakthrough that will mean the difference between sickness and health, between hope and despair, between independence and suffering, between life and death.

How disappointing, then, that after following through on our noble bipartisan effort to double our NIH budget over 5 years, we should be here today talking about an effective freeze on spending, on our investment in basic biological and biomedical research. It is as if we had our collective foot on the pedal together in a race for a cure on all these diseases and then all of a sudden we slam on the brakes. What happened? Did we win the race against these diseases? Of course not. Is there any less need today? No. Are there fewer promising avenues for research? Of course not. In fact, the opposite is true. We are poised, because of our investments over the last 5 years, to

make breakthroughs in many areas if we continue to commit the necessary resources.

I am very proud of the fact that the National Institutes of Health has its home in my congressional district. We also have a flourishing biomedical research industry developing the medicines of tomorrow. We have just completed mapping the human genome. We are on the threshold of many new discoveries, many new cures, and we have the potential for breakthroughs in so many areas. Now is not the time to rest.

The House-passed appropriation calls for just a 2.5 percent increase, the smallest in 18 years, and effectively, when we consider the fact that biomedical inflation is 3.3 percent, it effectively takes us backwards. The Senate came in at 3.5 percent, barely standing still. What are we saying? What kind of message are we sending to our citizens? What are we telling our families? Sorry, the tax cuts were just too important? Sorry, this just is not one of our top priorities anymore? Do not worry, we need to take a breather, there is always next year? That is the wrong message to send. Diseases do not call it quits. Diseases do not say okay, time out for this year, wait until next year. And neither should we.

So I congratulate my colleague from Texas for offering this motion. I urge my colleagues on both sides of the aisle to continue that bipartisan support that we have had for the last 5 years in doubling the NIH budget. Let us continue it. Let us make a renewed commitment not to put the brakes on, which is unfortunately what this budget does. Let us take advantage of the investments and the knowledge we have gained over the last 5 years to follow through and come up with cures to so many diseases that plague our citizens.

□ 1715

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me reiterate that in the last 5 years we have doubled the budget of NIH. We have had some wonderful results. They testified in our committee not long ago that today, because of advances in medical science, every 5 years life expectancy goes up 1 year. That is a tremendous breakthrough and achievement, particularly for our younger people. I look at my 20-month-old granddaughter and think how much more she will have in years, and, hopefully, quality years. That is the other challenge of NIH.

Let me say again that this is a little misleading to talk about a freeze, because last year we put a lot of money in construction, which is not in this budget. So in real terms of research this budget is up 6 percent, because of the money that will be available that has not been put into construction, as has been the case in other years.

I also want to commend Dr. Zerhouni, the new director of NIH. I

think we can look forward to his leadership being very effective on the part of this institution. He has developed a new road map, after extensive consultation with the research community; and the road map is designed to bring the NIH greater successes than they have experienced in the past. That is a great credit to his leadership; it is a great credit to Secretary Thompson, who named him to this position, and to President Bush, who supported this very strongly.

I think we can look forward to a continued period of great accomplishments from NIH. We are very supportive of this effort and will put the highest amount possible, as stated in the motion to instruct. We will do that.

But we have limitations. We have the budget. We have the dollars available to us. In our subcommittee, it is not just NIH. It is education; it is IDEA. There was an extra \$1 billion we put in this year. There are a whole host of good programs.

I say our Subcommittee on Labor, Health and Human Services, Education and Related Agencies is the love-your-neighbor committee, because all 280 million Americans in one way or another have their lives touched by the education programs, by NIH research, by our Labor Department programs to help people get relocated and get new jobs in the event of plant closures.

So we are going to do the best we can. This motion to instruct, we are going to support it because it says essentially what the committee will try to do in conference.

Mr. Speaker, I yield back the balance of my time.

Mr. BELL. Mr. Speaker, I yield 3½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, I want to begin by saying that this is a moment in American history where we begin to pay the price for the Bush tax cuts. For 3 years, we have been told that the \$3 trillion worth of tax cuts that are now going to be put in place over the next 15 years, that we do not have to worry because it will not impact on education, it will not impact on Social Security, it will not impact on Medicare, it will not impact on Medicaid, it will not impact on NIH. Do not worry.

Well, the gentleman from Ohio did a wonderful job doubling the NIH budget over a 5-year period. He has got a heart of gold. But this issue is now out of his control. There is no money left. We have got to tighten our belt.

How about in Iraq? Well, not there. There, we have an ability to send \$87.5 billion this year, on top of the \$75 billion we have already spent. For NIH, sorry, no increase. No increase? Fourteen million Americans are going to have Alzheimer's by the time all the baby boomers have retired, 14 million. Five million are going to have Parkin-

son's disease by the time all the baby boomers have retired; 1½ million Americans are going to have ALS by the time all the baby boomers have retired.

For Iraq, \$150 billion over a 1-year period. For NIH, for all of the health care security for every American family, after inflation, after some of the money which is going to have to now be spent on bio-defense and antiterrorism at NIH as well and coordination with the antiterrorism effort, we are going to see a net decrease in NIH spending.

Now, one of the by-products of all the NIH spending over the years has been the lengthening of life expectancy. That is good. But the problem is that it has made it clearer that when people age, all of these other diseases then manifest themselves, Alzheimer's, ALS, Parkinson's and many others for which we do not have a cure. We have cured the diseases that people died from in 1900, remarkably because of NIH; but we have not cured the diseases of the 21st century yet. That only can happen if NIH is fully funded.

Now, for smart bombs, an unlimited budget; for smart medical research, I am sorry, no increase.

Mr. Speaker, if we are not going to fund and leave the money in for the nursing home care for all of these people, and, by the way, half the people in nursing homes have Alzheimer's, guess who pays for it? Medicaid. When it hits 14 million, it is going to be Medicaid. But this tax cut is now going to make it impossible for us to fund that nursing home care for those senior citizens across our country.

So they either have to have it one way or the other in the Bush administration: cure these diseases, or leave the money in for the nursing home care. You cannot have it both ways.

Mr. BELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I want to thank the gentleman from Texas (Mr. BELL) and the gentleman from Ohio (Mr. REGULA) for the great work they do for NIH.

I am here as the cochair for the Diabetes Caucus to encourage Members to vote for this motion to instruct. Diabetes is one of the fastest growing and deadliest diseases in the United States. Approximately 17 million Americans, or 6.2 percent of the population, have diabetes. NIH funding is essential to preventing, treating, and curing this disease. Research done at the NIDDK has been critical for the prevention and treatment of diabetes and its complications, which include blindness, kidney failure, heart disease, and amputation.

NIH research has shown that it is possible to stop the progression of the disease in newly diagnosed individuals; it has helped pinpoint the genes that cause the disease and its complications; and it has proven that normalization of blood glucose levels can help many people with the disease avoid complications.

Nothing, however, has shown more progress than the results we have seen in clinical trials involving the transplantation of insulin-producing cells into individuals with Type I diabetes. This groundbreaking research has truly brought us within the reach of a cure. So far, we are seeing an 80 percent success rate. By actually funding this research, we can help the Immune Tolerance Network support further clinical trials so that islet transplantation will be available for the millions of Americans with diabetes.

The tiny 2.5 percent NIH funding increase passed by the House means that some studies by the NIH will not be continued and that researchers with promising ideas will not be funded at all. We are stifling research with this anemic increase, and we are limiting the quality of health care available to all Americans.

Diabetes costs \$132 billion a year and one in four Medicare dollars is attributable to individuals with diabetes. A larger investment now in this research will save money in the future.

Let us keep our promise to the children who visited this year. Let us remember them, and vote for the Bell amendment.

Mr. BELL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. GREEN of Texas. Mr. Speaker, I rise in strong support of my neighbor in Houston's motion to instruct conferees to increase funding for the National Institutes of Health.

The NIH is the crown jewel of America's biomedical research system. Thanks to incredible work done at NIH, Americans are living longer, enjoying a better quality of life, and witnessing cures and treatment for diseases that once meant certain death.

The Congress made a commitment to build on the success of the NIH by doubling its budget over the past 5 years, and I congratulate the appropriations process. I was a strong supporter of that effort, and I am glad that the President signed that fifth and final installment last year.

But, in all honesty, 2.5 percent is an embarrassment. My concern, Mr. Speaker, is a saying we have in some rural areas, Don't eat your seed corn. That is what we are doing here. The NIH research is the seed corn for our biomedical successes. If we do not continue to provide much more than 2.5 percent, then we are eating our seed corn in our country. That should not happen, because, in the long run, and even in the short run, our constituents' health will directly be affected.

Mr. Speaker, this is the smallest increase in 18 years for the NIH, a sharp deceleration from the 15 percent annual increases; and that is why I say, let us not eat our seed corn. Let us provide the opportunity for us and our

children and our parents to continue to benefit from the success of NIH.

This leaves almost no room for any projects. According to NIH, just maintaining ongoing research projects will require funding increases totaling \$652 million in FY 2004. That would eat up the majority of the \$673 million increase in the bill.

Mr. Speaker, that is why it is so important that we provide much more money to NIH.

Again, I thank the gentleman from Houston, Texas (Mr. BELL) for providing this motion to instruct.

Mr. Speaker, I rise today in strong support of my Houston colleague's motion to instruct conferees to increase funding for the National Institutes of Health (NIH).

The NIH is the crown jewel of America's biomedical research system. Thanks to the incredible work done at NIH, Americans are living longer, enjoying better quality of life, and witnessing cures and treatment for diseases that once meant certain death.

The Congress made a commitment to build on the success of the NIH by doubling its budget over the past five years.

I was a strong supporter of that endeavor, and was proud that last year, the President signed the fifth and final installment of that promise.

But I, like my colleagues, was terribly disappointed that this historic increase was followed by an embarrassing increase of only 2.5 percent.

[This is the smallest percentage increase in 18 years and a sharp deceleration from the 15 percent annual increases that NIH received in recent years under the bipartisan program to double the medical research budget.]

This proposed increase doesn't even cover the costs of what it'll take to keep up with inflation.

And it leaves almost no room for any new projects. According to NIH, just maintaining ongoing research projects will require funding increases totaling \$652 million in FY 2004. That would eat up the majority of the \$673 million increase in the bill.

If we are really committed to providing the investments necessary to maintain our momentum, we must provide at least an 8–10 percent increase in NIH funding.

I urge my colleagues to support Congressman BELL's motion, and urge conferees to keep the momentum going by providing a sufficient increase for NIH.

Mr. BELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mrs. CAPPS), who also serves as the Chair of the Cancer Caucus, as well as the Heart and Stroke Caucus.

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me time, and I rise in support of the Bell motion to instruct.

Mr. Speaker, there is not a Member of the House who is not terrifically proud of what goes on at the NIH and proud of the role that we play in funding this tremendous use of taxpayer dollars. We can see the direct connection between that investment and the very best health care in the world that is available because of the science that goes on there and the connections that

are made between what happens out in Bethesda and the daily lives of not only American citizens, but people around the world who depend upon the research and the difference that it makes. These investments have provided us with cures for the diseases that once killed so many people.

Now we are faced with what the completion of the Genome Project has brought us, poised as we are on the edge of discovering treatments, prevention methods and cures for some of the most debilitating and costly diseases that we know in our world today.

As people are living longer, we find so many who struggle with heart disease, with diabetes, with Alzheimer's, with ALS, with a myriad of conditions, where the research that is going on there now and the studies that are building upon the Genome Project and being developed are going to bring us those cures.

I want to speak just for a minute, following in the sequence of other speakers, about cancer and what clinical trials mean. I speak from personal experience as well, knowing as I do how lives depend on the pipeline that comes from the research right here, that is the hope for the future for people who struggle today, who face being cut off, many in midlife with promising futures, and the economic value that we place on them.

For this, and many other reasons, I want us to turn what we are creating, a deficit in NIH funding, into an increase. I support the Bell motion to instruct conferees.

□ 1730

Mr. BELL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank the gentleman from Texas for yielding me this time. This is a very important topic. I am a cancer survivor myself, but I think every family in America has been touched by serious illness, and the NIH can help if it is properly funded. We are very grateful for the increases in the past. I celebrate the leadership of the gentleman from Ohio; he is a great Member of this body. But I worry that others in his party who call themselves compassionate conservatives have left out the compassionate part.

To freeze the NIH budget at a time like this does serious damage to the research efforts that are going on all across this country, literally harming the futures of so many of our citizens. It is not the gentleman's fault. He has done the best that he can.

We all know that in this nonbinding motion that we are all about to vote for, it will really amount to very little change in that budget. We can and must do more. We must influence the President's budget-making process right now for his budget for next fiscal year. We need to make sure that we have no more freezes like this, no more inadequate increases, because the need

is too great, whether it is cancer or heart or stroke or ALS or cystic fibrosis and a myriad of other diseases. People do not have the time to wait.

So it is very important that we tackle these issues. I would hope that the gentleman, as he votes for this nonbinding motion to instruct, and his colleagues, will do more than just put that vote up on the board and pretend that they are for a big increase, because we all know that in the President's budget this last year, there was not a big increase. There was not really much more than a freeze, and we have to do better than that.

So this is a time for us to really dig deep, to do the quiet, behind-the-scenes work that is necessary to make sure that our NIH budget genuinely increases to meet the terrific need, not only in our country, but around the world, because as the gentleman knows, we are inventing the cures for diseases around this world.

[From the Tennessean.com, Nov. 7, 2003]

REPRESENTATIVE JIM COOPER: DON'T LET CONGRESSIONAL BUDGET CUTS SLOW THE WAR AGAINST CANCER

(By Representative Jim Cooper)

Patty Corlew lives on a quiet street in Mt. Juliet. She's a wife and mother. She works part-time. She helps out at Boy Scouts and is someone folks describe as a solid friend and good neighbor. Patty Corlew is not someone you'd likely expect to be a protestor. Fortunately, you'd be wrong about Patty Corlew.

"My boys were almost 2 and almost 6 when I was diagnosed with breast cancer. Thanks for these last nine years. I only wish my friend Mary and Elizabeth and others could have shared them with me and watched their children grow and become grandmothers like I hope to become. Please find a cure."

Patty Corlew is speaking out. She's added her name and her story to the growing list of Middle Tennessee-area cancer survivors who are concerned about the proposed level of funding for the National Institutes of Health (NIH) currently pending in Congress.

Those of us fortunate to live in Middle Tennessee don't have to look far to see the potential impact of a slowdown in NIH funding. Nashville is home to two of the leading medical research institutions working in partnership with NIH and its National Cancer Institute (NCI).

At the Vanderbilt-Ingram Cancer Center, a team led by Dr. Ray DuBois was the first to establish the link between colorectal tumors and an enzyme known as COX-2. Their findings helped explain why people who took large quantities of aspirin or drugs like ibuprofen over long periods of time had a lower incidence of colorectal cancer. Dr. DuBois is now the leader of a national study exploring whether COX-2 inhibitors might be used to prevent colorectal cancer as well as a variety of other cancers.

Meharry Medical College recently launched a long-term study of racial disparities in breast cancer. Women from minorities are more likely to die of breast cancer today even though they are less likely to get the disease. According to Dr. Ana Grau, cancer surgeon and director of The Breast Health Center at Metro General Hospital at Meharry, the center is determined to improve breast cancer survival rates for all women.

In another study, Vanderbilt-Ingram and Meharry are working together to answer one simple but important question: Why are African Americans, and all people in the South,

at greater risk of developing and dying from cancer than other ethnic or regional groups? The NIH-supported study will track more than 100,000 participants over five years to determine what lifestyle factors may be related to higher cancer rates for minorities and all residents in our region.

As these examples indicate, NIH is providing help and hope to millions of Americans today. Without the appropriate funding, however, future discoveries like these may be threatened.

In each of the past five years, NIH funding has increased by 14-15%. Last year, during congressional hearings, NIH leadership said the current pace of medical breakthroughs could only be maintained if NIH funding continues to grow at a level of 8-10%. Yet the House and Senate Conference Committee is expected to support the Bush Administration's NIH request: an increase of just 2.7%.

Like Patty Corlew, I am a cancer survivor. I was fortunate to discover my cancer early. And I am blessed to live in a community where cutting-edge cancer research and treatment is something we almost take for granted.

The examples described here of research being conducted at Vanderbilt-Ingram and Meharry are only three out of many promising studies currently underway at each institution. And Vanderbilt-Ingram and Meharry are not alone in working at the frontier of cancer research. More than 80% of NIH funding now goes to support research conducted at universities around the country.

In the next few weeks, Congress will be asked to decide the future direction of NIH work, whether the pace of disease exploration should continue at the aggressive level of recent years. In these tough economic times, every budget decision must be evaluated carefully. We must consider not only costs, but potential return on each taxpayer dollar we commit.

How do you measure the value of good health and quality of life?

As a member of the House Budget Committee, I am very concerned about the current trend in government spending. I strongly believe we cannot continue to ignore the rising deficit. But I also believe we cannot turn our backs on the progress currently being made in medical research. On the issue of NIH fund, I stand with Patty Corlew.

Mr. BELL. Mr. Speaker, I yield 3 minutes and 15 seconds to the gentleman from Maryland (Mr. HOYER), the distinguished whip of the minority party.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to the distinguished whip of the Democratic Party.

Mr. Speaker, our Republican colleagues, in my opinion, should review the work of Sir Isaac Newton. It was Newton, after all, who wrote 4 centuries ago: to every action, there is always opposed an equal reaction. Today we are seeing that principle play out right before our eyes.

Earlier this year, the majority party enacted its third tax cut in 3 years, the most recent one giving America's millionaires an average tax cut of \$93,500. And what do we suppose is the reaction to that action? Underfunding the No Child Left Behind Act by \$8 billion? Yes. Cutting heating assistance for our Nation's poor? Certainly. And the smallest percentage increase in funding for the National Institutes of

Health in 18 years? Indeed, Mr. Speaker, it is true.

The 2.5 percent increase for NIH in the House-passed version of the Labor-HHS-Education appropriation bill, which is the same increase proposed by the Bush administration, pales in comparison to the 15 percent annual increases NIH has received in recent years under our bipartisan program to double the medical research budget. I would say, parenthetically, we actually did not do that. The number got to a double, but because we added \$1.7 billion in additional responsibilities for our biomedical research, actually we did not reach the double. But the proposed 2.5 percent increase for NIH fails to keep up with inflation in research costs and will not allow for any real increase in research efforts. In other words, this is a retreat.

This appropriation even fails to provide funds to complete the John E. Porter Neuroscience Research Center, which is now under construction on the NIH campus.

Mr. Speaker, the 3.5 percent increase for NIH in the Senate is certainly preferable to what this body passed. But even that 3.5 percent increase would fail to cover the cost of renewing ongoing grants at committed levels and would barely keep pace with inflation. Therefore, Mr. Speaker, I urge my colleagues to support this important motion that the gentleman from Texas (Mr. BELL) has made to instruct offered by our side of the aisle, and the gentleman from Texas (Mr. BELL) in particular, to insist on the highest funding levels possible for NIH. We should not permit, Mr. Speaker, tax cuts for the most affluent Americans to squeeze out funding for research on Alzheimer's, cancer, heart disease, multiple sclerosis, and a host of other health concerns that affect the American people.

Isaac Newton was correct. For every action, there is an opposite reaction. Cutting NIH is that reaction.

Mr. BELL. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, what this comes down to is a question of priorities. There can be no higher priority in the United States of America than our Nation's health. Everybody listening knows the diseases that are impacted by NIH funding. It is no secret. And the gentleman from Ohio has certainly worked diligently over the course of the last 5 years to increase funding for the NIH, but this is not the time to stop. When progress is being made, we should not, as the gentleman from Maryland (Mr. VAN HOLLEN) pointed out, we should not put on the brakes.

If anyone doubts what a priority this is with health organizations across the country, they should know that over 600 major health organizations across the United States are supporting an increase in the NIH budget. The list includes the AARP, the National Academy of Health, Alzheimer's Association, American Academy of Family Physicians, American Academy of Pe-

diatricians, American Association of Blood Banks. I could go on and on, and I would not even be out of the As.

The point is, this motion has wide, wide support in the medical research and educational communities, and they are not going to be satisfied if the conferees come back and say, 2.5 percent is as high of an increase as we can give. They are looking for a much higher degree of funding. The Senate has offered 3.5 percent, but that is not enough. There is no greater priority right now in the United States of America than the health of our fellow citizens.

Mr. Speaker, I encourage my colleagues to continue the bipartisan support for this motion to instruct the conferees to vote in favor of it. I would encourage the conferees to do all they can to raise the level of funding high above the 3.5 percent level.

Mrs. BORDALLO. Mr. Speaker, today I join my colleague's motion to instruct the conferees on the Labor-Health and Human Services and Education appropriations bill to increase funding levels for the National Institutes of Health (NIH) to the highest funding levels possible.

NIH is the recognized leader in medical research and the focal point for health research in our country. Studies funded by the Institutes, have led to advances in the prevention, diagnosis and treatment of many diseases. Still thousands of Americans die every day from five major diseases: heart disease, cancer, stroke, diabetes, and Alzheimer's. Of these, heart disease, diabetes and certain cancers disproportionately affect minority populations. Additional research is necessary to understand the impact of these and other diseases that affect our minority communities and to develop cures and identify behavioral interventions that are effective at prevention. We are more aware today that research is needed to understand the impact of these diseases on our minority communities. We must increase funding to continue current research and development and to allow for new projects. In doing so, we give hope to all those afflicted with disease.

The SPEAKER pro tempore (Mr. KLINE). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Texas (Mr. BELL).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINCOLN DIAZ-BALART of Florida (during debate on motion to instruct conferees on H.R. 2660), from the

Committee on Rules, submitted a privileged report (Rept. No. 108-352) on the resolution (H. Res. 434) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

**MOTION TO INSTRUCT CONFEREES
ON H.R. 6, ENERGY POLICY ACT
OF 2003**

Mr. FILNER. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FILNER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 be instructed to reject section 12403 of the House bill, relating to the definition of oil and gas exploration and production in the Federal Water Pollution Control Act.

The SPEAKER pro tempore. Pursuant to clause 7, rule XXII, the gentleman from California (Mr. FILNER) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume. I rise today to speak on this motion to instruct the conferees on the energy bill.

Mr. Speaker, sometimes the Republican Party is called the GOP. Well, I often wondered what that meant. It is clear from this energy bill that it means gas, oil and petroleum. And my motion would instruct the conferees to strike a section of H.R. 6 which represents a shameless payback to the oil and gas companies of this Nation.

This section, if my colleagues can believe it, Mr. Speaker, grants oil and gas companies a free pass from complying with the Clean Water Act, a free pass from complying with one of the major environmental laws that was passed in the 1970s. Under this section, oil and gas development and production sites, oil and gas development and production sites and construction sites do not have to worry about what their activities are doing to our water supply. No other industry in America gets this exemption; only the oil and gas development and production industry. And, they are under no obligation to control storm water runoff that would sully our beautiful lakes, rivers, and streams, and they suffer no consequences.

It must be nice for the oil and gas companies to have friends like that in Congress and in the White House, especially when these friends are members of the majority party, the GOP, gas, oil and petroleum, who, rather than dealing with the messy process we so often revere here and hold up as a model of democracy in the world, simply block out all those who would disagree with

them. Heaven forbid anybody would bring up objections about the health of our water, not to mention the health of our people. The majority party, gas, oil and petroleum, has blocked out any dissenters right from the beginning on this bill.

One of my colleagues, the gentleman from Massachusetts (Mr. MARKEY), tried to introduce an amendment to strike this section, but he was ruled out of order and, get this, because the Committee on Energy and Commerce said it was not under their jurisdiction, but it was under the jurisdiction of the Committee on Transportation and Infrastructure, but that Committee on Transportation and Infrastructure never considered the bill. Talk about a Catch-22. And attempts to remove it on the floor of this House were thwarted by the Committee on Rules.

It is widely acknowledged that the majority did not allow the minority to participate, even in the conference committee, where the Senate and House meet to deal with their differences. So there was never a chance for honest debate of this section. This is what we call as a model for the world, a democracy.

So what do we have now, Mr. Speaker? A situation where oil and gas companies will be able to pollute our waters so that our children and grandchildren will not be able to use them. Our waters will be spoiled, our health will be threatened, but that is okay. We do not need clean water anyway, as long as we have our oil. And any suggestions that we invest more in renewable energies or in cleaner energies all were thrown out, and the handouts to the oil companies just keep getting bigger and bigger.

Right now, I encourage my colleagues to stop this insult to the environment and to the democratic process. We ought to vote "yes" on this motion to instruct and not to let the oil and gas companies pollute our waterways, and we should let the Nation know that we care about clean water.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion to instruct filed by the gentleman from California (Mr. FILNER) seeks to remove section 12403 of H.R. 6, the pending energy bill in conference with our counterparts in the other body, the provision that passed the Committee on Energy and Commerce and the House as a whole. The motion to instruct would seek to have the House conferees reject the provision that the House has already adopted when we passed H.R. 6 on April 11 by a vote of 247 for the bill to 175 against the bill. That is approximately a 60 percent vote in support of the overall package.

Section 12403 in the context of the Federal Water Pollution Control Act, which we commonly refer to as the Clean Water Act, defines oil and gas ex-

ploration and production to mean "all field operations necessary for both exploration and production of oil and gas, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such activities may be considered construction activities."

□ 1745

Why do we need to have a definition in this energy bill? Section 402(1)(2) of the Clean Water Act specifically prohibits the administrator of the EPA from requiring a Federal stormwater discharge permit for discharges of stormwater runoff from, again, I quote directly from the act, "oil and gas exploration, production, processing, or treatment operations or transmission facilities composed entirely of flows which are from conveyances or systems of conveyances, including, but not limited to, pipes, conduits, ditches, and channels, used for collecting and conveying precipitation runoff and which are not contaminated." This has been the law since 1987.

In plain language what it means is the EPA has no regulatory authority over waste water in the construction or the operation of a drilling rig in the United States. This has been the law since 1987. The statutory language seems clear that any matter of stormwater collection, whether it is a ditch, a culvert under a road, a diversion channel around an oil and gas well location, does not have to be permitted by the EPA. We could not be more clear. But the EPA has sought to regulate the building of the oil and gas location sites by insisting on National Pollutant Discharge Elimination System, NPDES, permits, commonly referred to as stormwater discharge permits for the construction of the site.

So even the EPA will admit that once it is built and in operation, they have no jurisdiction. So they are trying to do a back-door, an end-around and say you have to get a permit to construct the site. That simply is not the intent of the Congress. It was not the intent of the Congress 10, 15 years ago; and it is not the intent of this Congress. It is a direct contravention of the intent of Congress.

The requirement for a stormwater discharge permit is in direct opposition to Congress that the EPA attempts to separate the movement and placement of drilling equipment from oil and gas exploration and production operations. Applying common sense, which sometimes is in short supply, I understand, but if you apply common sense to the plain meaning of the statute, you would show that activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment are part and parcel of the operation. You cannot have one without the other. Therefore, a statutory exclusion for one totally encompasses the other as well.

The existing statute specifically precludes the requirement for stormwater

discharge permit if the runoff is not contaminated by coming into contact with, again I quote from the act, "any overburden, raw material, intermediate products, finished product, by-product, or waste products located on the site of such operations." Yet the EPA seems willing to entertain those and argue that dirt, D-I-R-T, is a contaminant. The term "overburden" is used in association with mining operations, not oil and gas operations, and is defined in the code of the Federal regulations to exclude topsoil. The terms "intermediate products, finished product, by-product, or waste products" eliminate consideration of dirt from their definitions because their definition encompasses the results of a process. Dirt is not something that EPA regulates.

"Raw material" is commonly defined as a crude or processed material that can be converted by manufacture, processing, or combination to a new and useful product. Raw material is not dirt. Therefore, pursuant to the express language in the statute, the building of an oil and gas well location which involves the movement of topsoil, or as we would say in Texas, dirt, is not subject to the requirements of stormwater discharge permit. We are talking about rain on dirt. This is not a man-made pollutant.

But even though the Clean Water Act is abundantly clear on this issue, EPA has chosen to ignore its express language, consequently the need for this definitional provision. Does this definitional provision affect the existing Clean Water Act? No. The provision merely defines oil and gas exploration and production. It does not change the substantive application of the Clean Water Act but merely provides a definition to provide clarity that should be readily apparent to any normally intelligent human being upon reading the statute.

The Clean Water Act requires a permit for contaminated runoff. This provision does not change that requirement. This provision does not allow contaminated stormwater runoff. In keeping with the existing law, which was enacted as a part of the Water Quality Control Act of 1987, this provision preserves the congressional intent to preclude the necessity of a permit for stormwater runoff that is not contaminated.

Congress never intended for EPA to require a permit for the runoff of uncontaminated water or rain over dirt. Vote against the motion to instruct. Let common sense prevail and preserve the House position.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I would yield myself 2 minutes to respond to the gentleman from Texas (Mr. BARTON) who continues to throw dirt into this discussion.

It is true that the section of the Clean Water Act that the gentleman from Texas (Mr. BARTON) referred to

provides that permits are not required where stormwater runoff is diverted around mining operations or oil and gas operations and does not come into contact with overburdened raw material product or processed wastes. This was in recognition of the fact that there are several situations in mining and oil and gas industries where stormwater is already channeled around plants and operations in a series of ditches in order to prevent such pollution of the stormwater. But this section does not include any stormwater runoff that has been contaminated by contact with overburdened raw material where ends meet products, et cetera. The soils that are disturbed in drilling wells are both overburdened and waste products.

There is no evidence anywhere, even in the industry comments, that suggest that stormwater is routed around these drilling and construction sites as it is in the operation sites. In fact, what I wanted to bring in the argument is there is no evidence, even from the oil and gas industries, even from the GOP, that the stormwater flowing through the construction sites are free of sediments or other pollutants. That is what makes them contaminated.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I would like to thank the gentleman from California (Mr. FILNER) for offering this motion to instruct the energy bill conferees.

Rather than working on an energy bill that will work to solve our Nation's energy crisis, it appears that the Republicans are using this bill to wage a tax on our national resources, on our air, on our water.

The provision that was passed in the House without committee action would permanently exempt the oil and gas industry from the Clean Water Act's requirement to control stormwater runoff from construction activities at their exploration or production sites. Contaminated runoff would certainly impair the health of our Nation's streams, our lakes, our rivers, the waters, Mr. Speaker, where anglers fish, children swim. And we must not forget where our drinking water comes from.

Why are we rolling back the good progress that the Clean Water Act has made? Why are we doing this without a single hearing in the committee of jurisdiction and without the benefit of the EPA's years of work? It is time for the GOP gas/oil/petroleum group and their leadership to stop putting the interests of big oil and gas companies ahead, ahead of what is best for the American people.

Mr. Speaker, I urge my colleagues to vote in favor of the gentleman's motion to instruct.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Houston, Texas, (Mr. GREEN) a member of the committee of jurisdiction.

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, under current law, oil and natural gas exploration and production activities do not have to do the extensive stormwater permitting that is required for large residential or commercial developments.

The provision in question in the energy bill clarifies what is current law. Oil and gas drill site activity is not the same as residential and commercial building construction and should not have to do the same permits.

It is unnecessary, and the loss to our domestic oil and natural gas supplies would be severe. This motion to instruct is trying to put a square peg in a round hole.

All the provision in the energy bill does is clarify that the definition of oil and natural gas exploration and production includes the preparation work for that exploration and production.

The provision in the energy bill does not roll back the Clean Water Act in any way. If a producer discharges reportable quantities of any hazardous substances in stormwater, they have to do stormwater permitting. If a producer's site discharges stormwater that contributes to a water quality violation, they have to do stormwater permitting. If there is a production site that I find out in my district that is actually polluting, then I will have them investigate it. That is under current law. And they should be.

The result of this policy, if we adopt this motion to instruct, is that we would have less domestic energy and higher natural gas prices. And with natural gas prices as high as they already are, the effects of this motion would now be very serious on the manufacturing jobs, not only in my own district that depend on affordable natural gas, but all over the country, whether it is in California or whether you are on the east coast.

We do not have a choice on where to get our natural gas. If it is by nature, it is by nature. We need to produce it where it is, and hopefully it will be more domestically. The opportunities for imports of natural gas from Mexico and Canada and overseas are limited. So we are going to have to depend on our own resources even more. It is going to be hard to do that. If we are going to have to depend on our own resources, it is going to be hard to do that with a bad regulatory policy.

The EPA, if they know that there is pollution already in an oil and gas site, they can go out. In California, that seems like where a lot of these motions to instruct come from; they can go out and investigate. If there is pollution, they can be cited. But do not make them go ahead and hinder what industrial production we are trying to do right now. That is all this does is restate what is current law, Mr. Speaker. That is why I urge my colleagues to vote against the Filner motion to instruct conferees.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Texas (Mr. GREEN) continued to muddy the waters not only of this debate but of this Nation.

Let me quote from EPA's most recent national water quality inventory 2000 report which says siltation, siltation is one of the leading pollution problems in the Nation's rivers and streams. Siltation alters aquatic habitat, suffocates fish eggs and bottom dwelling organisms, and can interfere with drinking water treatment processes and recreational use of a river. Dirt, dirt, dirt. We are talking about pollution of our Nation's streams.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in strong support of this motion to instruct conferees on the Energy Policy Act. This motion is about a subject about which the gentleman from California (Mr. FILNER), my colleagues, and the gentleman from Massachusetts (Mr. MARKEY) and I sent around in a Dear Colleague letter recently as part of my efforts on the energy subcommittee to alert Members of this body about the raft of terrible provisions in the energy bill conference report.

This particular provision undermines the Clean Water Act by giving oil and gas companies a permanent exemption from pollution control requirements at drilling sites. The Clean Water Act requires developers to obtain a stormwater permit from EPA to ensure that their construction practices do not lead to harmful runoff. In fact, if you go right outside the Capitol, especially on a rainy day like today, you will notice some of the measures these permits require for the visitors center construction site right here.

In this case, it is simple things like rocks and mesh over storm drains that keep out stormwater that could be polluted by construction activities.

□ 1800

Currently, the oil and gas industry enjoys a temporary moratorium on complying with these storm water permitting provisions. This moratorium is for construction sites of less than five acres. EPA is continuing to study the issue further, and the agency is expected to issue a final rule March 25.

Yes, the drafters of the energy bill cannot wait for EPA to determine an appropriate course of action. Instead, the energy bill shortcuts the process and gives the industry a permanent exemption for all construction activities for oil and gas exploration regardless of size. As a result of this exemption, oil and gas exploration would be the only construction activity not subject to Clean Water Act requirements. Oil and gas operations would be under no obligation to control pollution that would pollute our Nation's lakes, rivers and streams. This is an end-run around one

of our Nation's most successful environmental laws. And, of course, no hearings have been held on this issue in the committee of jurisdiction, the Committee on Transportation and Infrastructure.

This amendment to the Clean Water Act is bad for public health, bad for environment, and certainly does not belong in the energy bill.

Finally, Mr. Speaker, I would like to take this opportunity to note how deeply disappointed I am in the conduct of the energy conference to date. To date there has been one official meeting of the conference, despite assurances by the leadership that it would be an open conference with full debate on the key issues. Instead, the bill is basically being drafted in secret with only occasional press reports about what is exactly in the bill. And from what we can tell, the bill will make major policy changes on a raft of issues. It will spend billions and billions of taxpayer dollars in subsidies to some of the richest industries on this planet; and all of this is being done basically in the dead of night.

It is very much like the way the appropriations process has been run and most of the rest of the major issues as well. This kind of closed, secretive process does not produce good policy. Quite frankly, it is scandalous. It is undemocratic.

For that and other reasons, I certainly do appreciate the gentleman from California's (Mr. FILNER) efforts on this motion. I urge all Members to support it and oppose any energy bill that contains such a shameful provision.

Mr. BARTON of Texas. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. HAYES). The gentleman from Texas (Mr. BARTON) has 20 minutes remaining. The gentleman from California (Mr. FILNER) has 17 minutes.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I rise in opposition to the Filner motion to instruct conferees on H.R. 6, the energy bill.

If you ask any one of a thousand people employed by the oil and gas industry in my district, the question, How do you physically get oil and gas? They will all answer the same way. The first step is exploration and production to prepare a site for drilling. Like a surgeon sanitizing a patient before an operation, an exploration site must be prepared before drilling can begin. Cleaning, grading and excavating have always been an inherent part of oil and gas activities.

Congress has exempted oil and gas deficits from the storm water permit process and there is good reason to do so. Oil and gas exploration occurs in predominantly rural areas and remote locations. Oil and gas site preparation uses temporary, nonimpervious, low-impact techniques. These techniques

have inherently lower environmental impacts compared to conventional commercial and residential construction in urban settings.

If these activities are nonexempt, oil and gas leases will be lost to time delay. If oil and gas leases are lost, development of on-shore domestic and oil gas reserves will be lost.

Mr. Speaker, I do not have to tell that you we depend far too much on foreign oil. We import more than half of our oil from foreign sources, a number that is expected to grow to 66 percent by the year 2010 if we do not act now.

I urge my colleagues to support domestic production and vote no on the Filner motion to instruct.

Mr. FILNER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. GRIJALVA).

(Mr. GRIJALVA asked and was given permission to revise and extend his remarks.)

Mr. GRIJALVA. Mr. Speaker, I rise today to speak in support of the Filner motion to instruct.

The issue of proper regulation of oil and gas companies with regard to clean water is a very real and serious concern for the people of Southern Arizona that I represent.

On July 30 of this year, as an example, an 8-inch high pressure gasoline pipeline operated by Kinder Morgan, Incorporated on the west side of Tucson, Arizona, ruptured. Ten thousand gallons of gasoline were sprayed 50 feet in the air dousing five homes under construction, which later had to be demolished. Hazardous fumes were created 250 yards away from occupied homes.

In the aftermath, there were reports of ground water contamination resulting from the rupture and possibly from the reconstruction efforts. Initial reports varied, some indicating serious contamination. More recent reports seem to show contamination may have been ongoing for some time and only came to light due to the investigation of the rupture.

Safety inspection reports dating back to 1995, and as far back as 1988, indicated potential problems for a rupture, but yet this information was never made available to the public or to their elected officials.

To address this problem, I have asked the EPA to conduct an independent assessment of the degree of contamination and the risks for residents. If the Filner motion is not passed, this type of oversight and enforcement would be seriously compromised. The people in my district have a terrible wealth of experience with ground water contamination. A plume of TCE created the most serious of many Superfund sites in my district. This pollution has created a legacy of illness and death across the south and west sides of Tucson. I am told it continues to grow every day.

The gas and oil industries facilities covered by this exemption tend to be

located in lower-income, minority and poor neighborhoods. Companies, of course, seek to limit their legal liabilities by placing these facilities near populations without the money to litigate or the strong political representation. Then the companies come back to us and ask for more legal protection, as they have in this amendment, and for our complicity in this injustice.

The bill before us would expand an exemption that should never have been passed in the first place. It is absurd that we would be debating whether to increase pollution by giving legal immunity to corporate polluters. How can a Member of Congress seriously argue that we should allow more pollution in our ground water, rivers and streams?

The issue is clear: Do we want to maintain our standards of clean water or do we want to expand existing loopholes that allow even greater environmental injustices to occur with our complicity?

I urge my colleagues to protect human health, protect our children, and our precious and increasingly fragile natural legacy by voting yes on the Filner motion to instruct.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 2003.

Hon. MARIANNE HORINKO,
Acting Administrator, U.S. Environmental Protection Agency, Pennsylvania Avenue, NW., Washington, DC.

WAYNE NASTRI,
Regional Administrator, Hawthorne Street, U.S. Environmental Protection Agency, Region 9, San Francisco, CA.

DEAR MS. HORINKO AND MR. NASTRI: I am writing regarding the recent gasoline pipeline rupture in Tucson, Arizona. This disaster is of extremely grave concern to me and to the constituents I represent in Arizona.

On July 30, the pipeline, owned and operated by Kinder Morgan, Inc., ruptured, spraying 10,000 gallons of gasoline onto homes in Tucson. This event subjected my constituents to serious environmental, health and safety risks. Thankfully, no one was injured in the rupture. Now that the immediate danger of the rupture has passed, however, residents are enduring the impacts of the pipeline's reconstruction and potential realignment.

Neither the public nor elected officials knew the extent of the safety risks associated with the pipeline. Our preliminary information indicates that the pipeline may have failed safety inspections from 1995 on; however, this information was not made public, nor made available to elected officials or emergency personnel. This information is very disturbing in light of the extreme risks involved with the transportation of highly flammable materials.

In the aftermath of the rupture, there have been reports of groundwater contamination as a result of the pipeline rupture and/or reconstruction efforts. Reports on the issue have varied: some indicating a dangerous contamination, and some not. In light of this discrepancy, and a great deal of anxiety on the part of residents of Tucson, I request that you immediately commence an independent assessment of the situation in order to ensure that the citizens of Tucson and southern Arizona are safe from any unnecessary risks of the rupture itself and impending reconstruction.

It is absolutely crucial that citizens of Southern Arizona know the full extent of the

danger and risks associated with this rupture and reconstruction efforts. It is the EPA's responsibility to ensure that our citizens are protected from environmental contamination. Please inform my staff member, Rachel Kondor, at (202) 225-2435, as to the steps you plan to take with regard to this issue.

Sincerely,

RAÚL M. GRIJALVA,
Member of Congress.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Lubbock, Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, I rise in opposition to the Filner motion to instruct conferees.

First and foremost, Mr. Speaker, the House Energy Policy Act does not exempt oil and gas exploration and production sites from environmental regulation. Any claim that it does is simply untrue. Rather, the provision in the legislation clarifies under what conditions EPA should regulate these facilities. This provision simply clears up Congress's original intentions with regard to storm water permitting under the 1987 Clean Water Act's amendments. It should be included in this conference report.

Noncontaminated storm water from oil and gas exploration and production sites was specifically excluded from the new storm water permitting requirements for sites in 1987. However, EPA did not interpret the law that way. EPA decided to subject uncontaminated runoff from these sites to rules designated to regulate runoff from major construction sites, such as shopping centers and subdivisions.

Mr. Speaker, before coming to Congress, I was a land developer. I have moved a lot of dirt in my life. I have prepared a lot of sites to build homes for Americans; and there is a lot of difference between preparing a site for drilling and preparing a site for homes.

Additionally, the cost of making these kinds of nonsense pollution requirements for sites that should not be under this regulation only adds to the cost of housing and it only adds to the cost of oil and gas exploration in our country, at a time where we are a net importer, Mr. Speaker, of substantial amount of our petroleum products.

Oil and gas exploration production sites are not major construction sites and should not be permitted in the same manner. That was Congress's original intention, and we need to restore the intent in the conference report.

While EPA has suspended permitting for these sites in order to reevaluate the regulations, we need this provision to clear up the issue and end the lawsuits and move forward once and for all.

If there is contaminated runoff at these sites, it will be subject to EPA permitting. Oil and gas producers continue to manage storm water when they build on exploration sites in order to prevent contaminated runoff. Exploration sites need to be stabilized quickly

in order for development equipment can be brought on to the sites quickly.

Timing is crucial with these projects and unnecessary regulation slows and discourages new development of energy resources we need. Disruption of energy supply development is detrimental to a sound national energy policy. Oppose the Filner motion to instruct.

Mr. Speaker, this is needless regulation that we need to start curbing in our country, and I urge Members to be oppose the Filner motion to instruct.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I keep hearing the gentleman from Texas saying that we should not disturb the development of oil and gas, and surely we must find sources of energy in this Nation.

What about alternative sources? And why does everyone other industry in America have to comply with this section of the Clean Water Act and not gas and oil if this motion does not pass.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

(Mr. BLUMENAUER asked and was given permission to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on his important motion to instruct.

My friends who are so concerned about the energy industry, I fear are giving us conflicting signals. On the one hand, we are told that we can open up areas to additional drilling and exploitation because it is so safe, because it can be done without environmental damage. They are willing to go into the pristine arctic wilderness area and subject it to drilling.

Yet, we are told here that, no, we actually have to extend further protections, further exemptions from full compliance with our Nation's environmental laws. I find it a little ironic.

It is sad that we are debating what may be in the energy bill because the irony is, of course, that the committee members who are on our side of the aisle have been excluded. They do not really know exactly what is in the conference committee report, let alone the public and the rest of America. But the fact is that we are very likely to be dealing with this exemption.

I have heard references again that I find ironic to the committee of jurisdiction. The gentleman will remember that when the gentleman from Massachusetts (Mr. MARKEY) attempted in the Committee on Energy and Commerce to provide an amendment to deal with this specific subject, he was ruled out of order because the committee of jurisdiction happens to be our Committee on Transportation and Infrastructure, but we have not been dealing with this. This is dropped in in this hidden conference process from which the Democrats have been excluded.

When there was an effort to go to the Committee on Rules earlier to explicitly deal with this matter when the energy bill was coming forward, the Committee on Rules would not allow it.

The gentleman from Texas refers dismissively to "dirt" as though it is not a pollutant. Well, I ask the gentleman to come to the Pacific Northwest and talk to sportspeople who will tell you that inappropriate regulation of dirt, of silt is a serious pollution problem. And that is why responsible contractors deal with it and, in fact, that is why we have had it under Federal statute and why it is being employed right here within sight of the Capitol. Dirt, silt is a serious problem.

Now, this regulation has been under control since 1992. In fact, the EPA has been looking to extend it because this is serious business, not just the sites that are over five acres, but from one to five acres. Again we have been operating under this rule for 10 years.

Now, I am sorry my colleague from Houston got away because I have the provisions here of Section 402, and it appears that it would not permit the administrator to do what he was saying, to clean up pollution after the fact.

The point is we should not be cleaning up after the fact. There is no good reason to roll back this protection. There is no good reason for the Committee on Energy and Commerce to act outside their jurisdiction and deny the opportunity for the Committee on Transportation and Infrastructure to deal with it.

Last, I find it ironic that this comes forward on a day when two more environmental rollbacks have been brought forward by this administration. There is a leak that they are going to cut back clean water jurisdiction over streams that do not have a ground water source, and today the administration announced that it would not be pursuing any of the pending new source review cases against utilities that went ahead with construction in violation of the new source review program.

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This despite their repeated assurances when they were coming forward with the NSR rule change that they would not affect pending cases.

Mr. Speaker, this is a part of a pattern of environmental rollback that we have seen with this administration that will not correlate its campaign rhetoric with what it does in office and where this Congress is complacent in stepping back from our requirement to protect the environment.

I strongly, strongly urge that we approve the motion to instruct from the gentleman from California.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. CARSON), a member of the Committee on Transportation and Infrastructure.

(Mr. CARSON of Oklahoma asked and was given permission to revise and extend his remarks.)

Mr. CARSON of Oklahoma. Mr. Speaker, I rise tonight in opposition to my good friend the gentleman from California's (Mr. FILNER) motion to instruct conferees on the Energy Policy Act of 2003. This motion will instruct conferees to drop a critical provision of domestic oil and natural gas production which would negatively impact this very important industry in my home State of Oklahoma and throughout the country.

The provision in the Energy Policy Act simply clarifies current confusion in the Clean Water Act that has led the Environmental Protection Agency to believe it should regulate storm water discharges resulting from the construction of exploration and production facilities under a different standard than operating facilities. This was never the intent of Congress.

The Energy Policy Act would clarify that one permitting standard would apply to both construction and operation of exploration and production facilities. This provides for sound, consistent and cost-effective regulations designed for the conditions associated with oil and natural gas facilities to be developed.

I respectfully request that my colleagues join me in opposing the Filner motion to instruct. I appreciate the granting of the time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

I would tell the Rhodes scholar from Oklahoma that he needs some additional training in research. Staff that was here when the bill was written know the intent of Congress, and it is not as the gentleman described.

Let me respond to several of the arguments from the other side. If the provisions stays in the energy bill, it is a rollback of existing requirements for construction over five acres. That is what exists now, and this rolls it back, no matter what they say that this intended 10 years ago or whatever.

Our original intent in 1987 was to exempt storm water that was totally unpolluted. Storm water that was totally unpolluted was exempted. Storm water from construction is polluted, as we have heard from the gentleman from Oregon, and the gentleman from Texas knows that when there is no possibility of runoff into the waters of the United States one does not need a permit. Where all the storm water is kept on site, go do it; they do not need the permit.

So we are I think hearing justifications. We are hearing rationalizations of the destruction of our environment.

Mr. Speaker, other industries do not have this exemption from the Clean Water Act. In fact, many other companies, including mom and pop businesses with far fewer resources than the oil and gas industry that the Republican party tries to protect, every one of those businesses must take steps to reduce polluted storm water runoff from their construction activities. So why not oil and gas companies? Could it be

because they spend every election cycle millions of dollars on campaign contributions?

These companies I think are getting a payback here in the form of special interest loopholes in the Clean Water Act that was stuck into the energy bill. In the last few years, they have given over \$64 million to Federal candidates and their parties. It is a great payback that we have here in the energy bill for those contributions.

Mr. Speaker, environmental groups all across the Nation support this instruction: The Audubon Society, the American Rivers, the Center for International Environmental Law, Clean Ocean Action, Clean Water Action, Coastal Alliance, Defenders of Wildlife, Earthjustice, Environmental Integrity Project, Friends of the Earth, the Gulf Restoration Network, the League of Conservation Voters, the National Environmental Trust, the National Resources Defense Council, the Save the Dunes Council, the Sierra Club, The Ocean Conservancy, The Wilderness Society, the Union of Concerned Scientists and the U.S. Public Interest Research Group. The National League of Cities supports my instruction, and not only these environmental groups support the motion but hunting and fishing groups in America do, Trout Unlimited, the Izaak Walton League and the National Wildlife Federation.

It is clear that an exemption is being carved out to allow one business, one sector of our economy, one extremely powerful sector of our economy to buy its way out of the Clean Water Act. I think that is a terrible terrible thing to say to our Nation, that if one gives the campaign contributions they get exempted from the environmental protection that is required of everyone else.

Mr. Speaker, I would urge us to adopt this motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Can I inquire of the gentleman, who is the author of the amendment, if he has any other speakers?

Mr. FILNER. I have someone to counter whatever the gentleman says.

Mr. BARTON of Texas. The reason I ask is, the gentleman has the right to close. So after I speak is the gentleman going to give the closing statement? Is that the gentleman's intention at this point in time?

Mr. FILNER. Yes.

Mr. BARTON of Texas. Okay. Mr. Speaker, how much time do I still have?

The SPEAKER pro tempore (Mr. HAYES). The gentleman from Texas (Mr. BARTON) has 12 minutes remaining, and the gentleman from California (Mr. FILNER) has 3½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume, and at the end of my statement I am going to ask my good friend from Abilene to answer a few questions since

I know he has got a number of these drilling sites in his District.

I want to start out by saying we have no opposition if a State or a local government, for whatever reason, wishes to put some regulations in place to prevent siltation into their waterways, but the Clean Water Act is explicit that we do not regulate drilling sites, oil and gas drilling sites, under the Clean Water Act. It is explicit in the Act. What EPA has tried to do is say, that is true, but we should be able to regulate the site construction, the site preparation of these drilling sites.

Now, use a little common sense. What is the worst thing that is going to happen while one is preparing a site to be used as a drilling site for oil and gas exploration? It might rain. It might rain. I do not know how long it takes to prepare a drilling site. My good friend from Abilene may know. It may take a week. It may take 2 weeks. It may take a couple of days, but if it takes 6 months to get the permit to prepare the site, and a person has to spend \$10- or \$15,000 to get the permit and then to put up the berms and all that stuff and it does not rain, they have done a lot of work for nothing, and maybe if one is a small, independent drilling operator like there are a lot of in my District, trying to operate out of the old Corsicana field or Mexia field, they may say to heck with it, I am not going to even try.

The average well in Texas produces less than 10 barrels of oil a day right now. How many little guys do we want to make it so impossible to do anything to extend the life of our existing fields on the off chance that while they are preparing the site to drill it might rain? The Clean Water Act does not regulate dirt as a pollutant. It is not a regulated pollutant.

So all that we are saying in the bill that has already passed the House is the law already is explicit that the EPA cannot regulate an active drilling site. We say they cannot go in and in a back door way try to regulate the site preparation, and again, we are talking about storm water, rainwater, runoff which if one is preparing a drilling site, the worst that is going to happen is it might rain and they might get a little mud. That is the worst that is going to happen.

Mr. FILNER. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. FILNER. Mr. Speaker, the gentleman said, if I heard him right, that he might be going over previously active fields, right, construction that were, am I to understand, active fields?

Mr. BARTON of Texas. In my District, we are going into old fields and trying to extend the life of those fields, and on occasion, believe it or not, they do scrape up \$10- or \$15-, \$50,000, get a lease, go out and actually try to drill a new well. It does happen, not as often as it should, in my opinion, but it does happen.

Mr. FILNER. Mr. Speaker, if the gentleman would continue to yield, would there not be the possibility in active sites or previously at the sites benzene, toluene, other heavy metals? There would not be just dirt there?

Mr. BARTON of Texas. If one goes to drill in an existing site, under State regulation, in my case the State of Texas, requires site remediation, site monitoring, and again, we are talking about storm water runoff. If there is contamination, we do not change that. We do not change that at all.

All we are simply saying is heaven help the poor guy or girl in our society that wants to go out and try to find some more oil and gas and they actually put up their own money, go to the bank, borrow it, whatever. Let us do not require them to get a waste water runoff permit from the Federal EPA that explicitly says in the current law one does not have to have once the site is active.

I want to ask my good friend from Abilene a few questions if he would care to engage me in a colloquy or dialogue. I would assume that the gentleman has some oil and gas production in his District in West Texas. Is that correct?

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. STENHOLM. That is correct.

Mr. BARTON of Texas. Has the gentleman ever been in a conversation with an oil and gas producer at some cafe or maybe a church or at a social and they actually talked about maybe going out and trying to drill a few new wells?

Mr. STENHOLM. Mr. Speaker, I have done better than that. I have had them drill on my own property. They drilled 11 dry holes which I have had discussions with them as to why they could not do a better job of finding oil under my property than just drilling dry holes.

But from the standpoint of the basic in the gentleman's exchange with the gentleman from California (Mr. FILNER), we used to have a very bad situation in Texas, and I can show my colleagues land in my community that was literally destroyed by the oil and gas industry because of their inability and unwillingness to protect it. That was 50 years ago.

Today, when the last well that was drilled on my property, again a dry hole, one cannot tell they were there today. They do an excellent job because that is the rules and regulations that Texas imposes upon the oil and gas industry, and I believe that is basically true all over the United States today.

The question before us, though, it is not just oil and gas producers that are opposed to these proposed storm water regulations being imposed unilaterally across the board on every possible site. It is also my small towns and communities have got real problems with this,

home developers, et cetera, because in dry West Texas, we can impose some of these regulations based on the possibility of rain and spend more money than one can possibly get out of the investment that they are going in. So it would have a very damaging effect on economic development.

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Mr. BARTON of Texas. Mr. Speaker, I ask the gentleman from Texas, on the dry holes drilled on the gentleman's property, how long did it take them to prepare the site for drilling?

Mr. STENHOLM. A couple of days. They would go in and dig the slush pit. The next thing, the drill rigs are there.

Mr. BARTON of Texas. When they are doing this site preparation, they prepare the pits, they have State and Federal regulations they have to comply with in terms of the drilling muds and the fluids that go down in the well and come up with the well; is that correct?

Mr. STENHOLM. And they have to dig a pit that will hold that which they are going to use on that particular site.

Mr. BARTON of Texas. So if there is anything that is going to be contaminated, they are preparing for those types of fluids?

Mr. STENHOLM. Under current law, that is correct.

Mr. BARTON of Texas. But they are not actually using any of those fluids in the site preparation? They are not doing a test run where they put those kinds of fluids in?

Mr. STENHOLM. Not until they drill.

Mr. BARTON of Texas. If we were to agree to the Filner motion to pull something out of the pending energy bill that has already passed the House so EPA could regulate the site preparation for storm water, rain water runoff, then, obviously, additional site preparation would be required, additional berms, plastic fences, and those types of things; is that correct?

Mr. STENHOLM. That is most certainly the fear, and it is not just a fear, it is a reality if we impose these regulations all across the United States, as someone might in a certain area in which we have a different rainfall characteristic.

The annual rainfall in my district ranges from 14 inches in the west to 35 inches in the eastern part of my district, the part that adjoins the district of the gentleman from Texas (Mr. BARTON). Therefore, there are different components. But the law gets interpreted and put into place and enforced in ways that assume that a drilling rig in west Texas is going to suddenly be faced with a 20-inch rain.

Mr. BARTON of Texas. Mr. Speaker, I appreciate the gentleman for engaging in this dialogue, and it is obviously not prepared. Let me continue to yield and ask a final question.

Does the gentleman know anybody in west Texas, in his district, that thinks that dirt that gets wet is a pollutant? Wet dirt caused by rain raining on the

drilling site, is there anybody in west Texas that thinks that is a pollutant, wet dirt because of rain?

Mr. STENHOLM. In the case of a flood, wet dirt that goes into a home is a pollutant.

Mr. BARTON of Texas. When was the last flood in Abilene?

Mr. STENHOLM. Two years ago, but I take the gentleman's point.

Ironically, we are facing the same question in some regions of this country where dirt is considered a pollutant, and we are attempting to regulate plows. I remember 3 years ago, I believe, in Arizona, we were attempting to regulate dust storms. That is difficult to do, the same way the gentleman is talking about regulating when it is going to rain and how much is it going to rain. From the standpoint of a normal operation in my district, again, on my own farm, the site is prepared. It would be unconscionable to require a permit, going over 6-8 months, or order to find an opportunity there based on storm water. It is done based on other conditions, and that is already current law.

Mr. BARTON of Texas. Mr. Speaker, I agree with the gentleman. We have shown in this debate that there is bipartisan opposition to the Filner motion. It is not because we do not like the gentleman from California (Mr. FILNER). He is a great guy. It is not because he is from California, the Golden State, it is simply because his motion, to those of us who oppose it, just defies common sense.

The law is clear if we have an active drilling site, it is explicitly exempt in the statute from regulation for waste water runoff. There is no reason in the world to take the plain language of an active drilling site and say you should have to regulate, at the Federal level, the site preparation for rain water runoff. That is why we clarified and added this simple section that says what they say for the site itself when it is active should also be applicable to site preparation. I ask for a no vote on the Filner motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say that the gentleman from Abilene, Texas (Mr. STENHOLM) did such a good job for the gentleman from Texas (Mr. BARTON) that they should have treated him better in the Texas redistricting law.

We have been told we ought to cry for some of these gas and oil producers and developers, and that these poor folks, we have to let them produce. I am told that the permit that would be needed for such a situation only takes 7 days. That is the law. I do not know what Members are talking about—6 months, or we will never be allowed to prepare the site. It is 7 days for the permit.

In an arid area such as the gentleman's, the law specifically waives the requirement for a permit. If there is no

corrosive rain, there is no permit required. I would be tempted to say the gentleman is throwing red herrings across the debate, but with the gentleman's policies, the red herrings might all be killed so I will not.

Let me get to dirt.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, let me say the concern I have, when the regulations are read and the experiences we have had, we have had some extremely damaging experiences with the Endangered Species Act. What the gentleman says—7-day permit, that is correct; but someone comes in and sues at the exact moment, and then we get into the litigation and all of the questions based on it.

Mr. FILNER. Mr. Speaker, I understand the gentleman's concerns. In California we have the same ones. Litigation is not the route that we would favor. We would like a commonsense, as the gentleman from Texas kept saying, a commonsense law.

But dirt, siltation, is in fact the second leading polluting problem in our Nation's rivers and streams. It suffocates fish and eggs and bottom-dwelling organisms. It alters aquatic habitat, and interferes with drinking water and the recreational process of the river. So siltation is a real problem.

In conclusion, our country needs energy. We support its development, but clean water is as important as energy. It is vital for our economy and for our life itself. And the lands where the wells are drilled are the same lands that provide water for our ranchers and our city dwellers, as well as our fish and wildlife population.

The oil and gas industry say, and I have seen TV advertisements and full-page ads in magazines, that we can develop energy and protect the environment at the same time, and we agree with them. So why should Congress weaken environmental protection by writing a special exemption for one industry alone? I ask for approval of the motion to instruct.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the motion, and I commend the gentleman from California, Mr. FILNER, for offering this motion to prevent an egregious assault on the Clean Water Act, Section 12403 of H.R. 6, the Energy Policy Act of 2003, amends the Clean Water Act to provide a permanent exemption from stormwater permitting requirements for construction activities associated with oil and gas exploration and production operations.

If this provision remains in the energy conference report, oil and gas exploration would be the only construction activity not subject to Clean Water Act requirements. Oil and gas operations would be under no obligation to control stormwater runoff that would impair our Nation's lakes, rivers, and streams. It is a complete, unprecedented end-run around one of our Nation's most successful environmental laws and should be stricken from the conference report.

Since its enactment 31 years ago, the Clean Water Act has prevented billions of pounds of pollution from fouling our Nation's waters, and we have doubled the number of healthy rivers, lakes, and streams across America. Instead of celebrating these considerable accomplishments, this Congress, following the direction of the Bush Administration, seeks to abandon them. This provision allowing the oil and gas industry a permanent exemption from complying with Clean Water Act requirements is the latest step down that road.

If left unchecked, stormwater carries pollutants from construction sites to nearby waterways, endangering human health, harming wildlife, and rendering these waterways unsuitable for recreational uses such as swimming or fishing. We cannot allow the oil and gas industry to operate without regard to the amount of pollution running into our Nation's waterways from its construction activities, thereby reversing decades of effort at reducing polluted stormwater.

Since 1990, construction sites, including oil and gas construction sites, larger than five acres have been required to control stormwater pollution. In December 1999, the Environmental Protection Agency (EPA) published a rule, to be effective in March of this year, that requires smaller construction sites, those between one and five acres in size, to control stormwater runoff. However, in response to heavy oil and gas industry pressure, EPA granted the industry a special two-year exemption from this rule. EPA decided that it needed two more years to study the impacts of enforcing this rule on the oil and gas industry, while ignoring the impacts of industry pollution on water quality.

This two-year delay is nothing more than a special favor to the oil and gas industry—remember it has been nearly four years since EPA first published the rule. The provision currently at issue takes the favoritism to the extreme by providing the oil and gas industry a permanent exemption from controlling stormwater runoff—regardless of the size of the construction site.

The oil and gas industry exemption is not only wrong on substance, but it is also wrong on process. Since consideration of this bill began early last spring, the Republican majority has blocked repeated attempts by Democrats to be heard on this provision. During the Energy and Commerce Committee's consideration of the House Energy Bill Committee Print in April, Congressman MARKEY offered an amendment to strike the offending provision. Chairman TAUZIN ruled the Markey amendment out of order, stating that it was non-germane because the issue was not within the jurisdiction of the Energy and Commerce Committee and was "within the jurisdiction completely" of the Transportation and Infrastructure Committee. Despite my serious concern with this Clean Water Act exemption, the Transportation and Infrastructure Committee never considered the bill.

When the House considered the bill, Congressmen COSTELLO, MARKEY, and I sought to offer an amendment to H.R. 6 to strike the provision. But the Rules Committee blocked our efforts to offer that amendment on the House Floor. As a result, today, seven months since the Energy and Commerce Committee considered the bill, is the first time Democrats have the opportunity to debate and vote on this Clean Water Act exemption for the oil and gas industry.

This provision exempting oil and gas companies from complying with the stormwater permitting requirements rolls back the clock on environmental protections and seriously jeopardizes the health of our Nations lakes, rivers, and streams.

I urge members to adopt this motion and instruct the Energy bill conferees to reject this provision.

Mr. FILNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. FILNER).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. FILNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003.

Mr. CARDOZA. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CARDOZA of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed as follows:

(1) To reject the provisions of subtitle C of title II of the House bill.

(2) To reject the provisions of section 231 of the Senate amendment.

(3) Within the scope of conference, to increase payments under the medicaid program for inpatient hospital services furnished by disproportionate share hospitals by an amount equal to the amount of savings attributable to the rejection of the aforementioned provisions.

(4) To insist upon section 1001 of the House bill and section 602 of the Senate bill.

Mr. CARDOZA (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from California (Mr. CARDOZA) and the gentleman from Texas (Mr. BRADY) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion we are debating tonight instructs the Medicare conference committee to reject the controversial plan of premium support

and reallocate the money saved to increase payments to disproportionate share hospitals.

As a representative of an area with multiple DHS hospitals, I feel it is vitally important to provide them with the maximum Federal funding possible. However, let me first discuss the issue of premium support, and why I am concerned that this plan could potentially dismantle Medicare.

Under premium support, in the year 2010, private insurance companies and traditional fee-for-service would compete against each other to provide services to beneficiaries. Monthly premiums would be set according to an average and beneficiaries would then be given something similar to a voucher for which they could purchase coverage.

However, premium support will create a system where seniors' benefits can vary widely from county to county, State to State, and their choice in doctors can be restricted, vital services may not be covered, and their monthly premium can radically fluctuate. That is if the private plans even participate at all.

We need to look no further than the administration to find proof that this is an impending problem. A recent report by the Department of Health and Human Services actuary showed radical disparities in the monthly premiums by region. For example in Davidson County, North Carolina, Medicare beneficiaries would only pay \$53 a month under premium support. However, my constituents in Stanislaus County would be forced to pay a whopping \$117 per month, so more than double.

I am very concerned about subjecting a trusted health care system like Medicare to the uncertainty of the private market. I am especially hesitant about a system that relies on HMOs and other private insurance plans to administer services to our seniors. In my hometown of Merced County, there is not one, not one Medicare+Choice plan that my constituents can participate in, not one. However, for someone residing in Los Angeles County, 200–250 miles down the road, they have a pick of 11 different plans. HMOs have made it abundantly clear that serving rural America is not profitable, and, therefore, they have pulled out of those regions in a mass exodus. Now, the House bill relies on these plans to provide services for Medicare beneficiaries.

Mr. Speaker, to me it just does not make sense. So let us not take a gamble with our seniors. Instead, let us spend our resources on something far more tangible, disproportionate share hospitals. These are America's safety net hospitals caring for the sickest and poorest of our citizens, and they must not be abandoned in their time of need. Currently, there are over 40 million Americans without health insurance, and the number continues to rise. DHS hospitals accept every patient, regardless of their financial status, and pro-

vide the best possible care available day in and day out.

In my district, my hospitals fall between the cracks of not quite big enough to be considered urban, and just a little too large to be considered rural; but we have one of the largest uninsured populations in the country and increasing DHS funds are absolutely essential for their survival. Mercy Hospital in Merced County is facing severe financial shortages because of a lack of payments in this area and because of a high indigent population.

□ 1845

My motion not only directs the conferees to use funds saved by premium support for DSH hospitals but it also insists that the final legislation retain the most generous DSH provisions from the House and Senate versions of the Medicare legislation.

As we all know, DSH hospitals are facing the possibility of falling off a proverbial cliff due to the drastic reduction in Federal funding as directed by the Balanced Budget Act of 1997. Section 1001 of this bill increases DSH allotments in fiscal year 2004 to that of 120 percent of fiscal year 2003. Section 602 of the Senate bill increases the floor for low DSH States from 1 percent to 3 percent of total Medicaid spending. This provision is extremely important for States of Alaska, Arkansas, Delaware, Idaho, Iowa, Kansas, Maryland, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Wisconsin, and Wyoming who are bound by law not to spend more than 1 percent of their Medicaid dollars on DSH hospitals. Hospitals in these States are suffering as well, and we cannot let them fail, either.

Mr. Speaker, I urge every Member of this body to support my motion to instruct the Medicare conferees. America's seniors deserve a guaranteed Medicare benefit and America's safety net hospitals deserve our assistance.

Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Medicare recently celebrated its 37th birthday. Medicine has changed a lot since 1965. Unfortunately, Medicare has not. Back then our seniors spent half their medical dollars for doctors, the rest for hospitals. It was pretty simple. But today, a remarkable 40 percent of seniors' costs are for prescription medicine. Through the miracle of modern science, through lifesaving drugs, technologies and new treatments, our parents and grandparents are living longer and healthier lives than any American generation. Best of all, due to new medicines, they are spending less of their golden years in hospitals and nursing homes and more of their time with their children and grandchildren.

Medicare needs to change with the times. Our seniors deserve a Medicare

that includes a modern prescription drug benefit, one that is voluntary so seniors can keep the good plans they already have, one that gives seniors the right to choose the prescription plan that is best for them, not what is best for Washington, one that is affordable so that seniors have the peace of mind from knowing Medicare will remain strong and viable for generations to come. This is important as an issue to our country and to our State.

Back home in Texas, we have more than 2 million seniors who count on Medicare. On average, they fill 18 prescriptions a year, spending about \$1,200 annually. Many of our seniors face serious problems paying for these medicines. It does not seem right that our neighbors when ill are opting to leave prescriptions unfilled or cutting back on food and sometimes traveling to other countries to purchase drugs simply to protect their precious health. At this point in their lives, do our parents and grandparents not deserve better? The time for petty partisan fighting is over. It is time for Congress to act right now.

That is why I am proud to serve on one of the two committees which developed the Medicare Prescription Drug Modernization Act that successfully passed the U.S. House of Representatives recently. The legislation brings Medicare into the 21st century. It provides catastrophic protection for seniors with very expensive medicine costs, extra help for the poor and lowers drug prices while still encouraging the medical breakthroughs that our loved ones are counting on. The plan starts with a 2-year discount drug card for the neediest seniors, reducing medicine costs by an estimated 25 percent. After that, a new Medicare part D that is for drugs will be available from several different health care plans for prescription medicine. Seniors may choose one or not. It is not mandatory. It is their choice.

Like most health care plans, there will be a small annual deductible, monthly premiums of around \$35, and copayments up to a certain amount. Some seniors we know have extremely expensive medicine costs, much greater than the average person. To make sure these seniors will not face losing all that they have worked a lifetime to save, the new Medicare health plan includes catastrophic coverage that picks up most of the prescription costs over a certain amount. And for the neediest seniors, Medicare will pay for the prescription health care plan and many of the costs that go along with it. Those details are being finalized as we speak tonight.

But the House bill that we passed does more than just offer affordable prescription drug coverage. It also includes funding to make sure doctors and hospitals, nursing homes and home health agencies continue to treat our Medicare seniors. In fact, the DSH hospitals, those who take care of our neediest, will receive a 20 percent increase.

The allotment is increased 20 percent, a major amount, for those hospitals. There are new preventive tests added to Medicare, such as cholesterol screening and initial physicals; and there are important reforms to speed generic drugs to the market to lower drug prices.

As one would imagine, no change of this importance is without honest disagreement. Some believe this bill is too small. They have offered a proposal three times larger, which as one would guess bankrupts Medicare within a few years and mandates a Washington-style one-size-fits-all plan that does nothing to actually improve Medicare. The better way, I believe, is to guarantee our seniors have a prescription plan they can count on; one that will not threaten future medical breakthroughs; one that will not lead to rationing of health care; and one that will extend the life of Medicare, not hasten its demise. Yet others believe this benefit is too large, that Congress should focus on giving help only to the poorest. Unfortunately, we already have a program like that. It is called Medicaid. It is not the model we should have for this Nation and for our seniors.

As a fiscal conservative, I looked real hard at the cost of adding prescription medicine to Medicare, an additional 10 percent over the next 10 years. I am convinced we can spend a dime now to help seniors with their medicines, or we can pay a dollar later when they end up in the hospital, end up with a surgery they did not need to have if we would have helped them a little with the drugs beforehand.

I am also proud to support one of the best improvements in the basic Medicare program, the one we are talking about tonight. In 2010, seniors will have a choice of their basic Medicare plans, much like the choice Members of Congress and other Federal workers have that are included in the Federal employee health care plan. Groups like the Heritage Foundation say these reforms found only in the House plan go a long way toward fundamental change in Medicare. My question is, If these health care plans are good enough for Congress, why can our seniors not have access to them? Why can they not have the type of choices we have for our families at taxpayer expense? Why can we not have plans like the Federal employee plan that not only works better, provides better coverage but does not increase so much in cost over the years?

Recently a study was done that compared Medicare for the last 20 years against the Federal employee health care plan, the one the Members of Congress have. What the plan showed was that Medicare without prescription drugs rose faster in cost and price than the Federal plan with prescription drugs did. In other words, less care in Medicare, higher growing costs. More competition, better health care and the costs were lower over the years. Why

can seniors not have the same choice of good health care plans for Medicare and the cost where we know with the baby boomers coming into Medicare in the future, we will want those reasonable increases so that we can make Medicare last forever? That is the issue tonight that we are debating. Why can seniors not have the same type of health care that Members of Congress have? Why can they not have good choices? Why can we not have one that will actually make Medicare last longer and not hasten its bankruptcy? We need these types of reforms when we add Medicare prescription drugs.

As I watch our conferees, led by the gentleman from Louisiana (Mr. TAUZIN) of the Committee on Energy and Commerce and the gentleman from California (Mr. THOMAS) of the Committee on Ways and Means and the other conferees, I know that many Members of Congress, including myself, believe that added reforms to make Medicare better and last longer is the only responsible way to add a prescription drug benefit.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

I would say to the gentleman from Texas that it is my understanding that we have never offered a proposal that costs three times as much. In fact, the gentleman alluded to the fact that he favored a plan much like the plan that Members of Congress currently have. That is something that we have proposed. We have never heard that plan from the Republicans. We would certainly be willing to entertain a plan that was something similar to what Members of Congress have for our seniors, without a doughnut hole.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture and the cochair of the Blue Dog Coalition.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of the Cardoza motion to instruct Medicare conferees. The Cardoza motion instructs conferees to insist on a House-passed provision that would largely eliminate reductions in Medicaid disproportionate share hospital payments, or better known as DSH payments, currently scheduled to go into effect in fiscal year 2004 and fiscal year 2005 and provide some benefits in later years. DSH funding is our Nation's primary source of support for our safety net hospitals that serve our most vulnerable populations. Medicaid DSH is especially important now as the number of uninsured Americans continues to rise, with now over 43 million Americans without health care coverage.

In our State of Texas, I say to my friend from Houston, where nearly a quarter of the population has no health insurance, hospitals and health care clinics rely heavily on the DSH payments in order to finance care for the

poor and uninsured. Despite the growing demand, Texas is increasingly constrained from making DSH payments to needy hospitals. In the recent budget cycle, Texas State legislators slashed millions in funding and services throughout the Medicaid program in response to the State budget deficit. In fiscal year 2003, Texas DSH payments were reduced by \$80 million due to statutory limits in Federal law.

All of these cuts inevitably will fall on the shoulders of Texas' poor and uninsured, depriving them of their access to basic health care as providers like hospitals are left with no choice but to reduce services. Particularly this is a problem in rural areas. If hospitals and health care providers do not close their doors or fold under the financial pressure, they may shift the burden of caring for the poor and uninsured by charging more to the patients who can afford to pay, making health care more expensive for all Americans.

The House DSH provision contained in the Cardoza motion is essential to ensuring that the most vulnerable Texans continue to receive vital health care services. The provision, section 1001 in House bill 1, would provide Texas an estimated \$140 million increase in fiscal year 2004 over current law. Sufficient DSH payments are absolutely critical if hospitals and health care clinics are to continue to serve the neediest and the poorest Texans. Now is not the time to deny the poor and uninsured access to the health care they need or to shift the burden to the average American on an experimental program.

I cannot say how strongly I oppose the general provisions that my friends on the other side of the aisle seem to believe that privatizing Medicare, turning Medicare over to the private industry, is going to be the best way to serve the uninsured in Texas. It will not work because it cannot possibly work when you already have a program that the administrative cost runs consistently less than 2 percent. No one has ever been able to show me in any debate, any discussion, anywhere at any time that you can do a better job with less money. I would enjoy hearing people defend this from the standpoint of something other than philosophy.

But in the case tonight, we have a clear choice. This motion is clear to us, unless you believe, as some do, that privatizing is the way to go. We have already experimented with this in agriculture. We have done it now for 10 years. It has not worked and cannot work, and we continue to hear folks coming to the floor of the House talking about the need for additional Federal involvement in disaster programs covered by insurance. It does not work there. It cannot possibly work in something as important as health care.

I encourage all of my colleagues to support the Cardoza motion to instruct Medicare conferees and hope the conferees are listening carefully.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

The fact of the matter is that the best way that we can provide Medicare for our seniors is to give them a tested improvement that we ourselves are the beneficiaries of as Members of Congress. Some would like to just add Medicare prescription drugs onto the current Medicare system and if it goes bankrupt, it goes bankrupt. If the boomers use all the money, they use all the money. No big deal. Just let that happen. That is what this motion does.

What we are trying to do is take the responsible approach. What we are trying to do is to offer to Medicare seniors not only a way to help them with their prescription drugs but a way to make Medicare better for them and a way to make it last longer. Yes, seniors in Medicare today, they will tell you there are serious problems with Medicare. Fewer and fewer doctors are willing to see our seniors. There are complaints about service. This bill is increasing reimbursements to hospitals and health care providers, to these same hospitals that my friend from Texas talked about. But we are also adding something more important, a Medicare system you can count on for future years.

□ 1900

The way we do that is not, as my friend from Abilene, Texas, just said, sort of what has come to appear to be a tried-and-true tested way to scare our seniors by using the word "privatize," by saying we are ending Medicare as we know it. The fact of the matter is we are creating Medicare the way Members of Congress know it. Where we have a choice of plans that have worked for years and years and years for us, that have worked very well for us, and the question still comes down to if we add a prescription drug plan, should we not make Medicare last longer and improve it? And why cannot seniors have the same type of choice of health care plans that Members of Congress have? I mean have they not earned it at this point in life? And we know from recent studies that this is a proven way to provide health care in a way that helps provide Medicare for years and years and years to come.

The sections that are being proposed to be struck today save costs for Medicare, make it more financially sound, and we have a prescription drug plan that they desperately need. We are putting Medicare on a sound financial basis that will last longer and be better. It allows taxpayers to share in the savings and, as beneficiaries, make the best choice for them, not what Washington wants. And it parallels the competition that we have in the plans that Members of Congress use. It creates a level playing field between traditional fee-for-service which our seniors can continue to choose, and many will, and private plans that offer more choices

and lower costs over time. We are seeking these types of improvements because we know it is the only responsible way to help our seniors afford medicine costs and create a Medicare system they can count on for the future.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN), a member of the Committee on Energy and Commerce, who has over the years become a leader in this body on health care in America.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from California for his good work as a freshman in really stepping up and learning health care issues and fighting for the right causes in health care and protecting Medicare.

I would not expect the gentleman from Texas (Mr. BRADY) to know what his counterparts in the Committee on Energy and Commerce did. He is a distinguished member of the Committee on Ways and Means. But when he stands here and says that we just want to give to seniors what Members of Congress already get, he should know that the Committee on Energy and Commerce had an amendment, the Democrats in the Committee on Energy and Commerce, saying that every senior should get a plan at least as good as Members of Congress get, and it was voted down in a party-line vote. It was not the first time we had tried that. We had tried it other years. We will continue to try it. But the gentleman from Texas (Mr. BRADY) should remember that soon after the Medicare bill passed in the middle of the night, as all controversial bills pass in this body, by one vote, as almost all of them pass, and after Republicans surrounded a couple of Members on the House floor in the middle of the night, and convinced a couple of Republicans to switch their votes so they could get their bill through by one vote, he should remember a couple days after that, I believe the next week, that a Republican Congressman from, I believe, Virginia had legislation that said that we will not bring Members of Congress and Federal employees down to the level of the Republican Medicare plan. It was to protect those Federal employees, also protecting Members of Congress, but to protect them so they did not get a plan with this huge doughnut hole, this huge gap in coverage, with lots of out-of-pocket costs. My Republican friends did not want that plan for Federal employees and, I might add, for themselves.

This is the same Republican Congress where almost 200 Members of Congress voted for a pay raise for themselves and then a couple of months later voted against a \$1,500 pay increase for our servicemen and women of Iraq, just to bring another issue which sort of hits home with a whole lot of us.

The fact is that Medicare works, Medicare is rock solid, it is equitable, it is dependable, it is flexible, it is

cost-efficient, it serves America's seniors so very well.

President Bush, when he unveiled his prescription drug plan, he said, If you want prescription drug coverage, Mr. and Mrs. Senior in this country, you have got to leave Medicare and go into a private HMO. Then he realized that did not sound too good. Even the privatizers on the other side of the aisle who want to turn Medicare over to the insurance industry, even they realized that was not going to work in an election year; so they backed off that plan.

But the fact is that H.R. 1 abandons Medicare as we know it, trades it in for a multi-health plan system we already know does not work, privatizes the system, turns it over to HMOs. That is why the Cardoza motion to instruct is so very important. That is why Members should support it if they like Medicare the way it is. But under their plan without the Cardoza motion to instruct, Medicare ends in 7 years. It is a bad idea. Support the Cardoza motion to instruct.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to know that what we are talking about tonight is not about Iraq. It is not about congressional pay raises. It is about our seniors getting drug help for medicines that they desperately need and to make sure that we change and improve Medicare in a way that it lasts, in a way that they can count on for years and years to come.

It is true that an amendment was offered, and I always get a kick out of Washington. We think it is so important to score points against each other with amendments and clever motions on the floor. Our seniors, frankly, do not care about that. They need some help in buying medicines, and they need a Medicare system that will last long that they can count on. The fact of the matter is the amendment simply added costs to Medicare, did not add any of the improvements that would make it last longer. So bankrupting Medicare sooner is not something I would brag about, but in Washington people think that is clever.

Also, in Washington a big intent is SOS, scare our seniors, talk about how Medicare can never be made better, that there are no improvements, there are no other options to look at. But the fact of the matter is my colleagues on the other side continue to claim traditional Medicare is more efficient than the private plans that we as Members of Congress have. If that is the case, they have nothing to fear from the reforms and improvements in the Medicare bill.

If Medicare truly is more efficient than private plans, then the beneficiaries, our seniors, in competitive areas who remain in traditional fee-for-service will see their premiums go down; so they will benefit from this competition. We want to provide incen-

tives for seniors to choose the best plan, the most efficient form of care, and if traditional Medicare is that, then they will be given incentives to remain in traditional Medicare through premium decreases. In other words, seniors will see their Medicare premiums go down, not up, and that will be a pleasant change for seniors. But if private plans like the ones Congress have can deliver Medicare service more efficiently, then we want seniors to have incentives to join those plans. We want them to have the choice to pick the plan that is best for them, not a one-size-fits-all from Washington.

These improvements are necessary to bring Medicare costs under control so it lasts longer, so it is something our seniors can count on. We are not scaring seniors. We are offering them the choices they deserve at this time in their life.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

I would like to first assure the gentleman from Texas that I have not attempted to score debating points since I graduated from high school, and I think this issue dealing with Medicare for our seniors, prescription drugs for our seniors, is far too important to consider debating points. What we are concerned about is the fact that we have been excluded, predominantly, from a conference committee that is critically important to the vast majority of our seniors in this Nation. So this is the only method we have to have input into that conference process. I would also like to make the point that administrative costs in private plans are approximately 15 percent and under the Medicare system that we have in this country is probably one of the most efficient possible ways of delivering health care to our seniors. We only have a 2 percent administrative cost.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPs), my friend and colleague who has been a leader on the Committee on Energy and Commerce in fighting for maximum Federal dollars for Medicaid DSH hospitals.

Mrs. CAPPs. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I rise in strong support of this Cardoza motion to instruct conferees on H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003. I support it for what it protects, Medicare as we know it, and for what it supports, our underfunded DSH hospitals.

The House and Senate Medicare bills, as we know, would impose a privatization scheme on Medicare. This would jeopardize health care for our seniors and turn them over to the tender mercies of the private insurance industry whose strongest obligation is not to seniors but to their bottom line.

We created Medicare precisely because the private insurance industry

cannot afford affordable health care for seniors, and recent experiences with Medicare+Choice simply reinforce that lesson. Covering Medicare beneficiaries is too expensive for private plans to justify to their investors, and this is especially true in rural areas, where the low population and the lack of providers has proved to be too high a hurdle for private plans. But in spite of this experience, the House bill would turn Medicare into a voucher program.

The Senate bill would simply pay HMOs more per beneficiary than the traditional fee-for-service Medicare costs, and this would result in what my colleague from Texas does not think will happen, but it is naive to assume that this bribery for the HMOs to take these patients would inspire patients to stay in traditional Medicare. Therefore, they would opt out and Medicare would end as we know it. Why not just stick with traditional Medicare as we have it now?

This is a waste of money, this plan to privatize, and the net result would drive premiums up for Medicare beneficiaries, way up. At the same time this Medicare modernization bill deals a double whammy to hospitals that deal with a disproportionate share of populations whose resources do not match their needs. These hospitals have suffered a cut of hundreds of billions of dollars in this bill because of efforts to limit spending on Medicare. So these cuts threaten hospitals' ability to provide health care for America's poor and uninsured, just when uninsured seniors will find themselves without the ability to pay for their medications. They are told that this is because the budget is so tight, we cannot afford to properly fix this problem. We simply should not be throwing money at the private insurance industry when so many hospitals are just struggling to stay open.

So I urge support for this motion to instruct conferees so that they will continue to support hospitals and patients over HMOs and protect our constituents from the ill-conceived changes which will eventually eliminate Medicare as we know it today.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Here we go again, trying to scare our seniors, privatizing, ending Medicare as we know it, all the phrases the pollsters have used and tested to make sure that we get a partisan message out rather than a drug plan for our seniors.

The truth of the matter is if we were to adopt this proposal tonight, Medicare would go bankrupt sooner. We would be adding the prescription drug plan that we seriously need, but we would not make any changes making Medicare better and last longer so that the next generation would have a Medicare system they can count on. The fact of the matter is we are not trying to end Medicare as we know it. We are trying to create it as Congress knows it, as Members of Congress have in the

health plans and choices we have today. The fact of the matter is that there is no effect on Medicare entitlement by the House plan. Seniors will have entitlement to defined benefits just the way they do today. They will have access to traditional fee-for-service Medicare all throughout the country. What they will have when we defeat this proposal, as we will later, is something they do not have today, which is a choice of Medicare plans, health care plans that are more to what they need, not what Washington needs, one that suits a changing senior population. Seniors, as my colleagues know, some of them are in very good health. Some of the seniors in my district have episodes in one-time, two-time types of illnesses. They have to treat other illnesses as they get older and move into more chronic care areas where it is a continual fight for a healthy life.

□ 1915

Having the types of choices the Members of Congress have, the types of health care plans we think are good enough for our families, but apparently some do not think are good enough for our seniors to have, those types of choices, I think our seniors deserve that.

More importantly, without these changes, without these improvements to make Medicare last longer and make it a better plan for seniors, we are simply bankrupting it sooner. We are abdicating our responsibilities as Members of Congress. We are not doing the right thing for seniors.

My thought is if someone promises you something that seems too good to be true, it usually is. Being responsible and adding a prescription plan that is affordable for future generations and improving Medicare in a way that keeps the costs down for future taxpayers, that is the responsible way of helping our seniors.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to the gentleman from Texas by saying that those seniors in my district are already scared. They are scared about the fact that they cannot afford prescription drugs now. They are scared about the fact that all of the HMO+Choice plans have pulled out. They are scared about the fact that, in some parts of this country, it will be \$53 a month, and in my district the administration says it will be \$117 a month, which they do not know where it is going to come from.

Mr. BRADY of Texas. Mr. Speaker, will the gentleman yield?

Mr. CARDOZA. I yield to the gentleman from Texas.

Mr. BRADY of Texas. In the same setting, CBO estimates the premiums for fee-for-service Medicare may go down by \$10 a month, or, at most, increase by \$3 a month. It is much less variation than the CMS study that is cited here tonight.

The fact of the matter is that without some reforms to make Medicare better and last longer, premiums for taxpayers will go up and the whole system is going, frankly, to go bankrupt sooner.

I think one thing we share as Democrats and Republicans is wanting to try to find some way where we can make Medicare better and last longer. I do think that, despite our philosophical differences, we have some common ground in that area.

Mr. CARDOZA. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SANDLIN), my fellow Blue Dog and a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, I thank my friend from California for yielding me time.

Mr. Speaker, do we want to privatize Medicare? That is the question. It is as simple as that. Do we want to make prescription drugs available and affordable for senior citizens, or do we want to give money to HMOs to operate a plan for their profit? That is the question.

I rise today to join my colleagues in instructing the Medicare prescription drug bill conferees to reject the House-passed premium support provision, turning Medicare into a private voucher program, as well as the \$6 billion wasted in the ill-conceived Kyl demonstration projects.

We have a clear responsibility as Members of Congress to improve Medicare, not to destroy it. Yet, if we allow the Republican leadership to continue on their dangerous path toward privatizing Medicare, our seniors' access to affordable health care will be compromised beyond compare. Further, Medicare's promise of equity will be ended in a regional free-for-all in benefits and prices.

The Republican leadership is playing games with the American public with their constant renaming of this ill-conceived proposal. We all know it. You can call it "premium support," you can call it "comparative cost adjustment," you can call it a "voucher program." Heck, you can call it "Ray" or you can call it "Jay," but it is the same thing. Starting in 2010, our seniors will no longer be entitled to a Medicare defined benefit. It is as simple as that. How is that fair? Importantly, contrary to what my good friend from Texas said, it is estimated that the average Medicare premium will rise by 25 percent under the Republican plan, and some up to 88 percent in rural areas.

Mr. Speaker, as you know, over 80 percent of rural Medicare beneficiaries live in an area that private insurance companies have made a choice not to serve at all. Now, how is that fair?

What about this Kyl demonstration project, Mr. Speaker? What is that all about? The Kyl demonstration project follows the same destructive path towards anti-consumer, anti-senior, anti-hospital, pro-private insurance company, HMO legislation. That is what it

is. Under this proposal, private plans will be paid significantly more than it costs under Medicare to deliver the same service. Are we expected to believe that we are going to save money by spending more money for the same services? Is that what it is all about?

Just think what Congress could do if we freed up this money. I am sure our cash-strapped hospitals at home would not mind the money, particularly those in desperate need of improved DSH payments.

I can say with absolutely certainty in East Texas that the Atlanta Memorial Hospital, the East Texas Medical Center in Athens, Hopkins Memorial Hospital, Nacogdoches Memorial Hospital, Presbyterian Hospital of Greenville, Roy H. Laird Memorial Hospital and Titus County Memorial Hospital, they would be relieved and happy to receive this additional funding.

We should ensure that we retain the House provision in H.R. 1 that prevents cuts in Medicaid DSH payments. Furthermore, we should include the Senate provision that provides critical DSH increases for 18 "Low DSH" States.

Mr. Speaker, it is clear, our senior citizens and our hospitals and our rural communities need our help. The HMOs are doing just fine without us. I urge my colleagues to stand up for seniors, stand up for our hospitals, stand up for our rural communities, and vote in favor of the Cardoza motion. That is our obligation. That is our responsibility.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us clear up the facts again so we do not continue to scare our seniors for political purposes. The fact of the matter is that the Medicare entitlement has not changed. Medicare seniors will be able to choose the same fee-for-service they have for years. They will be able to choose it all throughout the country. The proposal we are talking about tonight actually saves money and lengthens the solid stability of Medicare.

The fact of the matter is when you hear Members talk about "we do not want to privatize Medicare," what they are saying is we do not want to provide the same choices the Members of Congress have. When they talk about giving money to the big, bad HMOs, they do not say, just like we do in the plans of Members of Congress.

The fact of the matter is that in this proposal the reforms we are offering, the choices, are that we are giving seniors an opportunity to choose the plan that is best for them, plans like we have for our families here in Congress, but apparently we do not want to offer for our seniors.

What we do know from history is two things: One is that low-income seniors, when they have a choice between just Medicare and other plans, they choose the other plans, because they get better value for their money, better health care, and we can make Medicare last longer.

The other point is the recent study that showed when you compare 20 years of Medicare costs against the 20 years of Congress' health care plans and that of our Federal employees, the Medicare plan provided less health care at a higher increase in costs than the private plans that Members of Congress rely upon that we are going to start offering, where possible, for seniors, where we have got more health care and the costs did not increase as much.

If we want to be responsible about adding senior prescription costs for our seniors, we also have to be responsible about giving them the reforms to make Medicare better and make it last longer, because if we accept proposals like this, frankly, we are going to hasten the bankruptcy of Medicare, not extend it.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to the gentleman from Texas by saying it is my understanding that we have offered to do the Congressional plan both in committee and here on the floor, and I would just say to the gentleman from Texas that I would be happy to join with him in this. In fact, the gentleman from Texas is in the majority, and he could propose that proposal tonight, if he so chooses.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Indiana (Ms. CARSON), whose district is faced with a growing problem of uninsured.

Ms. CARSON of Indiana. Mr. Speaker, certainly my heartfelt thanks go to my colleague the gentleman from California (Mr. CARDOZA) for bringing this important issue to the attention of the United States Congress.

The gentleman from California (Mr. CARDOZA) himself is the beneficiary of quality health insurance, yet he is standing here tonight on behalf of the millions of Americans who do not have adequate insurance, who are either under-insured or have no insurance, and the \$6 billion that this bill spends on vouchers certainly could be put to better use.

Let me explain very briefly about the Nation's DSH hospitals that need help right now. Let me use my own hospital as an example. Wishard Memorial Hospital, located in Indianapolis, is a Disproportionate Share Hospital and the fifth largest provider of outpatient indigent care nationwide. It is 144 years old and had some 850,000 patient visits in 2002, and that included a 19-percent increase over the prior year for indigent care.

Nine out of every ten of Wishard's patients receive health care through Medicaid or Medicare or are completely uninsured. Wishard collects, on average, 10 cents on the dollar from people who have no insurance. As a result, Wishard has one of the lowest private pay rates in the country. This fact makes it almost completely dependent upon the funding that it receives from the Dis-

proportionate Share Hospital formula, leaving the hospital with virtually no means to make up for the financial losses.

Without Wishard Memorial's services, Indiana's healthcare system would be plunged into crisis. The magnitude of the ripple effect caused by its collapse would be felt by hospitals and clinics throughout Indiana as Wishard's indigent patients seek care elsewhere.

Wishard Memorial's demise would do significant damage to medical education, homeland security, and indigent care in Indiana.

Wishard's indigent care comprises of almost 850,000 annual patient visits.

The hospital contains one of only two adult level-one trauma centers in Indiana.

The hospital operates the largest adult burn unit.

The hospital provides the most mental health and psychiatric services to indigent patients.

The hospital is the medical facility in Marion County for bioterrorism and smallpox preparedness and response.

Two-thirds of Indiana's medical students are trained at the hospital.

The hospital expects to end this year with a shortfall of about \$35 million and has started next year planning to spend \$54.3 million less than this year.

Wishard provided \$66 million in care to uninsured people in 1996. That figure jumped to \$118 million last year.

I want to thank members of the Indiana delegation, Representatives BURTON, SOUDER, PENCE, CHOCOLA, VISCLOSKEY and HILL for their continued support of Wishard Memorial Hospital.

I urge everyone to support this motion to Instruct. Our nation's Disproportionate Share Hospitals are in desperate need of your help.

Mr. Speaker, this is why I am so grateful to the gentleman from California (Mr. CARDOZA) for bringing this issue before the ears and eyes of America, and certainly before the United States House of Representatives, who can, in fact, see something that is broken and can fix it.

Mr. CARDOZA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, my friend from Texas said earlier we are not talking about a Congressional pay raise, but it is relevant, because the American people need to know that we are not willing to provide them with what we provide for ourselves. In this Chamber we voted to give ourselves a pay raise, and we voted to deny our soldiers a \$1,500 pay increase. That is relevant to this discussion.

We have a pretty good health plan here. I think it is fairly well subsidized by the taxpayer. We are not willing to do that for America's senior citizens.

We need a Medicare program that is predictable, affordable, stable and secure. That is what our forebearers have given us, and that is what we need to hold on to.

My friend from Texas said we would hasten the destruction of Medicare.

You know what will hasten the destruction of Medicare? Your party's raiding the surplus and using it for other purposes. That will hasten the demise of Medicare.

My seniors are pretty wise. They know what is going on up here. They know that we want to privatize this system, this system that they love and depend upon, and that we want to, by 2010, take away this guaranteed benefit. Quite frankly, America's seniors are going to storm this place when they find out what is happening. They will not tolerate these misstatements, this distortion, this exaggeration.

Quite frankly, if we allow the Republican Party under the leadership of this administration to do what they want to do, we will not have Medicare by 2010 as we know it today. Can you imagine what this country would be like without Medicare? Well, if your party has its way, I am afraid America's senior citizens are going to find out. That is why we ought to do the right thing here tonight and accept this motion to recommit.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, here is a lesson on how to scare seniors in three easy steps:

Tell them you are going to privatize Medicare. Do not tell them we are going to offer the same choices that Members of Congress have.

Tell them we are going to provide vouchers for Medicare. Do not tell them we are going to offer them the same types of choices that Congress has.

Tell them we are going to end Medicare as you know it, but do not tell them we are trying to offer Medicare the way Members of Congress have health care.

What they will not tell you, because it will actually reassure our seniors, is that the bill that we passed in this House, the bill that we are discussing tonight, says it clearly: There will be no change in Medicare's defined benefit package. Let me say that again: No change in Medicare's defined benefit package.

We are not ending Medicare as people know it; we are offering more choices and better Medicare. "Nothing in this part shall be construed as changing the entitlement to defined benefits under Parts A and B of the Social Security Act."

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The fact of the matter is, I think my friend, the gentleman from Ohio (Mr. STRICKLAND) said it best when he said we are not prepared to offer seniors what we have. Well, Members on this side of the aisle, we are. We know that the health care choices we have as Federal workers and Members of Congress should be the choices our seniors have, and that is what this debate is about tonight.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time, and I thank him for his leadership on this motion.

I am delighted that my good friend from Texas, and we are good friends, put on the record that there will be no change in the Republican bill on defined benefits. That means that our seniors know what they are talking about. They are against that bill, because they will not get a prescribed, guaranteed Medicare prescription drug benefit as it now stands.

So the reason why we have a motion to instruct is because we are fighting not to privatize Medicare and, in so doing, I say to my colleague, the gentleman from California (Mr. CARDOZA) has rightly suggested that the premiums that we will save, we can then invest in our DSH hospitals who are suffering and whose doors are closing.

I want a guaranteed prescription drug benefit, Medicare prescription drug benefit, and I am committed to working with the gentleman from California (Mr. CARDOZA) and my friends on the other side of the aisle to get what seniors understand is realistic, something this Congress, Republicans and Democrats, have promised for over 10 years.

But as we are working now, it is important, since we are locked out of the conference, that we instruct them to recognize the importance of helping the suffering hospitals that I have in my district. Northwest Memorial Hospital, which I had a chance of visiting, has an enormous caseload of uninsured patients, if you will, or uninsured individuals in their service area. They have a desire to have a prenatal clinic that will serve a number of individuals, including our Hispanics and other minorities in the area. They cannot do it because they do not have the money.

Mr. Speaker, let us support this motion to instruct that provides the resources to help our hospitals from closing their doors.

Mr. BRADY of Texas. Mr. Speaker, I yield myself the remaining time, and I will be brief in closing.

The fact of the matter is that the section I read, this law, this very thick law deals with existing Medicare today, where we offer reinsurance to seniors that there will be no change in those defined benefits. But the rest of that very thick bill talks about two things. The way that we can help seniors finally pay for the prescription costs that are so valuable to them, but so expensive, and, in a way that we are talking about tonight, we can offer seniors new choices in health care plans while we are making Medicare last longer and perform better.

This is the issue we have before us tonight: whether we are willing to just simply add prescription drugs to Medicare, a load that will be too large when

our baby boomers, our next generation come to rely upon Medicare; or do we add prescription drug coverage in a way that we also improve Medicare, where we make it last longer, where we make it a better system for our seniors, one that the next generation can count on; where we give the reforms and offer the choices that Members of Congress and our Federal workers have; where it is not Washington one-size-fits-all plans; where we do not dictate to people and mandate to people; where we do not ration the health care; where we do not tell them what is best for them; and where the bureaucracy does not get in-between the doctor and the patient.

Mr. Speaker, our seniors want help with prescription coverage, but they also want a Medicare system they can count on for years and years and years to come. These reforms, these improvements will lengthen Medicare, make it a better health care system, offer new choices for seniors who want them, and offer the types of choices the Members of Congress have. That is the debate tonight.

It all comes down to this: why is the health care system we have good enough for us in Congress, but not good enough for our seniors back home? My answer is that it is. They ought to have those same types of choices. They have earned it. They deserve it. And we are going to have a system that is not only better, but will last a long, long time.

Mr. Speaker, I yield back the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

I would first like to thank all of my colleagues who spoke on behalf of this motion today. I would like to thank my colleague from Texas (Mr. BRADY) from across the aisle for participating in this debate. We may differ in our opinions about which way is the best way to reform Medicare, but I appreciate his willingness to engage, in any case.

I would like to urge my colleagues on both sides of the aisle to consider supporting my motion to instruct. The premium support provisions in both the House and Senate versions of this bill are a recipe for disaster for our seniors. If premium support is enacted, our seniors will be subjected to vastly different premiums and benefits depending on where they live, they will be forced to assume all the risks associated with health care, and they will most likely lose their ability to choose their preferred doctor and hospital, that is, if the private plans even participate.

In my district, all but one of the supplemental private insurance plans we have once had have pulled out of our area, leaving my constituents in a serious lurch. Let us not take this giant risk again, Mr. Speaker. Let us instead spend our resources helping our safety net hospitals survive. DSH hospitals are the backbone of our communities, and the number of uninsured continue

to grow, as do their responsibilities to serve these populations. My motion retains the best provisions from both the House and Senate, and allocates any monies saved from dropping premium support to DSH hospitals across the United States.

Mr. Speaker, I urge an "aye" vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. CARDOZA).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. CARDOZA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

PROPOSED USE OF DISTRICT OF COLUMBIA PUBLIC SAFETY FUNDS RELATED TO TERRORIST THREATS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-140)

The SPEAKER pro tempore (Mr. PEARCE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Consistent with Division C, District of Columbia Appropriations Act of Public Law 108-7, the Consolidated Appropriations Resolution, 2003, I am notifying the Congress of the proposed use of \$10,623,873 provided in Division C under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia." This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH.
THE WHITE HOUSE, November 6, 2003.

CONFERENCE ON THE CHANGING NATURE OF THE HOUSE SPEAKERSHIP

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. DREIER. Mr. Speaker, it is among my duties to keep in mind the historical precedents of this body when

determining how legislation will move through the House. I am very privileged to do this job for our esteemed Speaker, the gentleman from Illinois (Mr. HASTERT).

Speaker HASTERT perhaps, more than any other in recent history, is uniquely qualified to bring a historical perspective to his job as Speaker as he was, as we all know, a government and history teacher at Yorkville High School in Illinois.

Because of his deep-rooted interest in the history of our Republic, it is my pleasure to announce to our colleagues that Speaker HASTERT, along with former Speakers Jim Wright, Tom Foley, and Newt Gingrich, will be participating in an event entitled, "The Changing Nature of the House Speakership: The Cannon Centenary Conference." This conference, named for Joseph Cannon, is being held on November 12 and is jointly sponsored by the Congressional Research Service and the University of Oklahoma.

Mr. Speaker, I encourage all of our colleagues to take the time to participate in this conference and perhaps learn something new about the history of this great body and the institution of the Speakership.

Mr. Speaker, I have a copy of the program here, and I will include it in the RECORD at this point.

THE CHANGING NATURE OF THE HOUSE SPEAKERSHIP: THE CANNON CENTENARY CONFERENCE

A HISTORIC EVENT FEATURING ALL THREE LIVING FORMER SPEAKERS AND THE CURRENT SPEAKER

The Speaker of the House is second in line only to the Vice President to succeed to the presidency. Few lawmakers can be said to possess the visibility and authority of the Speaker.

The role of the Speaker has been shaped largely by history rather than by constitutional definition. The Speakership has been influenced by the individuals who have held the post and the circumstances in which they have operated; formal obligations that have been assigned to the office by House rules and by statute; the character of the House as a political and constitutional institution; and the traditions and customs that have evolved over time.

We invite you to attend a one-day conference examining the changing nature of the speakership—a historic event featuring the current Speaker and all three living former Speakers and commemorating the centenary of one of the most noteworthy Speakers in the history of the House: Joseph G. Cannon, Republican from Illinois, who served as Speaker from 1903 to 1911.

This conference will explore the evolving nature of the speakership and discuss the key forces and factors which influence the ability to lead a large and complex institutions like the House of Representatives.

8:30 am Registration

9:00 am Welcome and Introduction—Daniel P. Mulhollan, Director, Congressional Research Service

9:15 am The O'Neill Speakership, 1977–1987—John A. Farrell, author, "Tip O'Neill and the Democratic Century" Comments by Hon. Mickey Edwards and Hon. Dan Rostenkowski

10:45 am Hon. James C. Wright, Jr., Speaker, 1987–1989—Comments by Hon. David E. Bonior and Hon. Tom Loeffler

Noon–1:45 pm Hon. J. Dennis Hastert, Speaker

2:00 pm Hon. Thomas S. Foley, Speaker, 1989–1995—Comments by Hon. Vic Fazio and Hon. Bill Frenzel

3:30 pm Hon. Newt Gingrich, Speaker, 1995–1999—Comments by Hon. Leon E. Panetta and Hon. Robert S. Walker

4:45–5:15 pm Conference Summary—Robert V. Remini, author of books on Andrew Jackson, John Quincy Adams, Henry Clay and Daniel Webster

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REPUBLICANS SEND WRONG MESSAGE TO AMERICA'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, with Veteran's Day nearing, I am ashamed, frankly, of how little this House of Representatives has done for the men and women who have served our country. There has been lots of talk, good talk, especially in the early days of November, but not much real action. In honor of our veterans, the men and women who are risking their lives today, tonight, and tomorrow in Iraq and Afghanistan, the many who have lost and continue to lose their good health and even their lives, our message should reflect our admiration for their commitment. It does not.

In July, House Republican leadership, through a procedural maneuver, struck down an attempt to restore \$1.8 billion, just to restore \$1.8 billion in veterans health care funding when they forced the House to vote on a bill with inadequate funding for veterans' health. Democrats and veterans' groups opposed the bill and demanded that the Republican leadership restore funding to the Veterans Administration. Now, it appears the VA-HUD appropriations bill will come out of conference \$500 million short of the VA funding level that we demanded and the Republicans promised in their budget resolution.

What kind of Veteran's Day message is that sending?

In light of the inadequacy of the majority's VA spending bill, Democrats fought for consideration of other solutions that would make up for those shortfalls that Republicans offered. Over 200 Democrats signed a discharge petition offered by the gentleman from Georgia (Mr. MARSHALL) that would force the House to consider legislation to eliminate the discriminatory disabled veterans tax. Responding, finally, to this pressure, Republican leaders offered a proposal that would only reach 50 percent of those veterans unfairly affected by this tax. Because this pro-

posal would be phased in over 10 years, reduction of the tax would be very small in the early years of the proposal and veterans would not even receive their full benefits. This is the best Republicans could offer: Veterans would not receive their full benefits until 2014, 11 years away.

This so-called solution pits one group of veterans against another group of veterans, hardly something we should do any time, but especially something we should not do in wartime. That is some message.

Democrats have offered a legislative package that does the right thing. Our proposal increases veterans' health care over the next 10 years by \$10 billion. It would give the disabled veterans' tax and pay veterans \$500 a month if their disability claim has been left pending for longer than 6 months. It would give \$1,000 bonuses for those soldiers returning home from Iraq and from Afghanistan. It would make military pay increases permanent for those in imminent danger and away from their families.

The Republicans have offered so much less; in fact, they have taken away. As soon as President Bush took office, he raised the copay at veterans' clinics across the country by 350 percent, from \$2 to \$7 per veteran per prescription drug per month. He has since proposed to raise that to \$15, from \$2 to \$7 to \$15; in effect, slashing the drug benefit that veterans have deservedly gotten in this country.

The President and Republicans have also cut education benefits.

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Why are they cutting education benefits to veterans? Why are they cutting prescription drug benefits to veterans? The answer is simple. It is to make room for the Republican tax cut. The tax cut, everyone knows that by now, the tax cut, that if you are a millionaire you get \$93,000 tax savings. Half of the people in my district in Ohio, northeast Ohio, in Akron and Lorain, Northridge, half of them get zero. Half the people in my State get zero while the "leave no millionaire behind" tax cut from the President goes forward, making it not just unfair in terms of the taxes that the wealthy get benefits from in a tax cut, and the middle class and working families do not, but also that is why he has cut veterans benefits, that is why the President has cut education benefits.

This was all topped off, Mr. Speaker, by the actions early this fall where almost 200 Members of Congress on the Republican side voted for a \$3,500, in fact, pay increase for themselves and voted against a \$1,500 pay increase for our troops overseas. That is the height of hypocrisy. We do tax cuts for millionaires, we do pay increases for ourselves, then we turn around, my friends on the other side of the aisle, and do not vote for a pay increase for our young men and women in uniform.

Our young men and women were sent to Iraq on the promise that when they

returned to this country, this country would care for them. Unless the Republican majority considers proposals that fully meet the needs of veterans, as my colleagues and I have tried to do, they are breaking that covenant.

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CONFIRMATION OF JUDICIAL NOMINEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. KING) is recognized for 5 minutes.

Mr. KING of Iowa. Mr. Speaker, I point out to the body and the American people that the President had made an excellent nomination in the name of Miguel Estrada. And for 28 months Mr. Estrada was held in limbo while we waited for the Constitution to be upheld in the other body. And that would be the advise and consent clause of the Constitution that establishes that the Senate shall confirm the President's nominees.

Now that 28 months and 5 days have passed, Mr. Estrada determined he needed to move on with his life. But the rules in the other body that establish a 60 percent vote to end a filibuster, have effectively established that standard as a requirement for a confirmation of a justice.

And now today, and as I read some of the publications that are out, I am heartened to learn that through the newspapers that the other body is planning to debate judicial nominations starting on Wednesday evening of this week. They pledge to debate the issue all night to get their message to the American people. I applaud them in their endeavor, and I will do all I can to support their efforts.

The blockage of judicial nominations by a determined minority is one of the most important issues before our Nation. Nothing less than our Constitution is at stake. I believe the Constitution is clear: a minority cannot impose a supermajority requirement for confirmation of a judicial nominee. The President is entitled to confirmation of his nominees if they garner a simple majority.

The advise and consent clause, which is article II, section 2 of the United States Constitution requires a simple majority of 51 votes for confirmation of a judicial nominee. Many nominees have 51 such votes. And that standard is the standard that has existed since the ratification of our Constitution in 1789, well over 200 years. But there is a new standard now, brought about by the minority. I firmly believe that it is

unconstitutional to require a higher standard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all Members to avoid improper references to Senate proceedings, including confirmation of judicial proceedings.

Mr. KING of Iowa. Mr. Speaker, I firmly believe that it is unconstitutional to require a higher standard for nominees than the simple majority specified in our Constitution. Janice Rogers Brown, Carolyn Kuhl, Charles Pickering, William Pryor, and Priscilla Owen, who are all waiting to be confirmed, deserve an up-or-down vote.

Mr. Speaker, I would like to bring attention to the House of a few of these well-qualified nominees. Janice Rogers Brown.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. If the gentleman will suspend. The Chair will again remind Members of the House to avoid improper references to Senate proceedings, including using Senate action on particular nominees.

The gentleman may continue.

Mr. KING of Iowa. Mr. Speaker, I will adhere to that directive. I will say these are reliable people. And in the case of Janice Rogers Brown, she is a classic American success story. She is a daughter of an Alabama sharecropper who became a member of the California Supreme Court. She was reelected to the Supreme Court by 76 percent, which was the largest margin of any justice running that year. More importantly, she is a well-qualified and excellent judge. She applies the law without bias and with an even hand.

William Pryor, another nominee, has a model judicial temperament. As attorney general, Pryor has demonstrated an ability to make decisions in full compliance with the letter of existing law, despite his own personal beliefs or preference. Even while Pryor personally opposed abortion, he has faithfully applied the Supreme Court's rulings on partial birth abortion and instructed Alabama officials not to enforce the State's partial birth abortion ban in a way that would violate the case law. It is clear that William Pryor would interpret the law, not make the law from the bench.

Mr. Speaker, I hope the American people will support this endeavor.

I hope the American people will listen next week when the qualifications of nominees such as William Pryor, Janice Rogers Brown and others are debated by the other body. At issue is one of the most important Constitutional questions of our time. Will the Constitution be upheld? Or will a determined minority be allowed to thwart the clear text of the Constitution and the will of the American people?

TAXING THE DISABLED VETERAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, November 11, Veterans' Day, more than 130,000 of our troops are in Iraq and at risk, thousands more in Afghanistan and elsewhere and around the world; and here at home we have 25.3 million veterans, 376,000 in my State.

What are we doing in celebration of Veterans' Day? Well, unfortunately, the Congress has done little. In fact, I would say this is the most antiveteran Congress under the most antiveteran administration in recent history.

Mr. Speaker, 150,000 veterans have waited 6 months or longer for basic health care appointments; 14,000 veterans have been waiting 15 months or longer for their expedited disability claims; 560,000 disabled veterans are subject to the disabled veterans tax. Yes, that is right. They are taxed because they are disabled veterans. It is a special tax levied on them.

The President refused to spend \$275 million in emergency money, but they have figured out a way to cut down the waiting list for health care. We can thank President Bush for that. His administration actually cut off 164,000 veterans from eligibility for health care this year, those who do not have service-connected disabilities but make as little as \$25,000 a year. He did find a way to reduce the waiting list by eliminating the eligibility of yet another group of veterans. Not the first time this administration has done that, not the last.

They proposed to double the drug copayment for veterans from \$7 to \$15. That was the President's and the Republican majority's proposal in this House. Luckily, it has not gone forward.

Finally, the House majority Republicans in their budget resolution cut \$14 billion over the next 10 years from veterans programs.

Now, to focus particularly on the disabled veterans tax, it is odd in a Congress that can borrow money, which is what we are doing because we are running deficits, that can borrow money to give each millionaire an average tax cut of \$93,000, that can borrow money to relieve the horrible burden from people who invest for a living, do not work for wages, but invest for a living, of paying taxes on the dividends on their dividend-paying stocks. Not too many of these vets that are disqualified have dividend-paying stocks. In fact, most Americans do not have dividend-paying stocks. But that investor class, they are going to get exempted from paying that horrible burden. The millionaires, \$93,000. We are going to borrow the money to give them that benefit. But somehow we cannot repeal a tax on disabled veterans which says that they will be offset dollar for dollar their veterans disability benefit which they earned against their military retirement pay. These are people who gave a career, a lifetime in service for their country, and somehow we cannot do that.

Now, there is a bill pending that would actually repeal the entire tax.

We tried to do this last year. The President threatened to veto the bill. He said we cannot simply afford to take care of those veterans. We can afford as much or more per year to exempt people who earn dividends on stock. We can afford as much or more per year to give millionaires an average of \$93,000 each in tax relief, but somehow we cannot afford that for our disabled veterans.

In fact, for the lifetime of these veterans, it would cost \$40 billion. Now, that is still a lot of money here. That is almost half as much money as the Congress borrowed just the other day to send to Iraq. That is a lot of money. But somehow the President says we cannot afford \$40 billion to deliver on our promises to these veterans for their lifetime for their disabilities.

There are, in fact, in the House 373 cosponsors of the bill. Then what is the problem? That is almost the entire House of Representatives on the bill. Well, the Republican leadership is the problem. They will not let the bill come up. And, of course, the President is a problem because he is threatening to veto the bill because we cannot afford to take care of these disabled veterans.

Now, there is a way to bring a bill to the floor when the Republican leaders refuse to bring a bill to do away with the disability tax on veterans. It is called a discharge petition. Need 218 people to sign it. Force the bill to the floor of the House over the objections of the Republican leadership. 203 people have signed it. Only two of those are Republicans. There are 158 Republicans who put their name on this bill, go home and tell their disabled veterans they want to help them, but they will not sign the discharge petition. They will not force the bill to the floor of the House.

Now, that would be a wonderful gift for our veterans for Veterans' Day if just another 15 Republicans who are cosponsors of the bill, claiming credit for it, have the guts to come down here and sign the petition, which is right behind me, to recognize our veterans properly for their service to our Nation. Now that would be a real Veterans' Day celebration.

THE CRISIS OF THE VA HEALTH CARE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I would like to talk about the trend that we are seeing from this administration when it comes to protecting our troops and caring for our veterans. As more and more Americans are coming to understand, the VA health care system is in a crisis. Veterans are waiting months for appointments, and some are being turned away when they go to enroll in the system.

The bottom line here is funding, obviously. If we want the VA to provide

the veterans with quality care, then we need to recognize and address this funding problem.

There are two things that we can do. We can appropriate the money that is needed, or we can refuse to put the needed funds into the system and instead throw the burden on the backs of the veterans themselves.

Sadly, the second option is what this administration has chosen to do over the last 2½ years. I would like to describe a pattern of behavior that is coming from this administration. In February of 2002, this administration, through the VA, increased the veterans prescription drug copayment from \$2 to \$7 a prescription. Now, for veterans who are living on fixed incomes, many who take 8 or 10 or more prescriptions in a month, this is a tremendous financial burden. That was in February of 2002.

In July of 2002, this administration, through its VA, issued a gag order. The VA deputy secretary issued a memo that instructed all VA network directors to halt outreach activities aimed at encouraging new veterans to come in for services. Instead, providing the resources necessary, the VA says to their doctors, their social workers, their nurses, you can no longer actively inform veterans of what they are entitled to receive. They even went so far as to tell these doctors they could not participate in a community health fair. That was in July of 2002.

Well, in January of 2003, the VA decided they were going to create a new category of veterans. They called them Priority 8 veterans. These are veterans who served honorably. Many of them are combat-decorated veterans.

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And the VA is saying to this group, you are out of here. Do not come to us. You can no longer enroll in the VA health care system because you make too much money.

Well, the American people need to know that those of us who serve in this Chamber make about \$155,000 a year and a combat-decorated veteran can make as little as \$24,000 a year, and the VA is saying to you, you can no longer participate in VA health care. Think about that. We make \$155,000, a veteran who served honorably, perhaps even in combat, can make as little as \$24,000 a year and this administration says they are high income, so you cannot participate. I think that is shameful, quite frankly. Shameful.

Well, that was in January of 2003. You see the pattern? Episode after episode of the VA doing things that are harmful to the veteran.

Well, then in January 2003, the President sent his budget request to us. And in the President's budget request, he suggested that we not charge a veteran \$7 for each prescription but that that be increased to \$15 a prescription.

Now, think about that. At a time when we are preparing to send our young men and women into battle, the

President rewards our veterans by asking that their prescription drug costs be increased from \$7 to \$15 a prescription. It gets worse. In that same budget request coming from the President, he asked that there be a new annual enrollment fee imposed upon Category 7 and 8 veterans of \$250 a year. I just think this is outrageous. The veterans of this country are coming to understand who their friends are. And how can this administration claim to be a friend of the veteran and at the same time put these increasingly onerous financial burdens upon them.

Well, I want to talk about one other issue this evening with the time I have left. A few months ago, I received a letter from a soldier in Iraq who was concerned that his troops had not been provided basic, modern bulletproof vests, but instead were issued Vietnam-era flak jackets. The flak jackets are designed to protect against slower moving shrapnel and are incapable of stopping high-velocity projectiles such as bullets from assault weapons, and we sent our soldiers into battle in Iraq without this most basic protection. Shame on us.

PERMISSION TO HAVE UNTIL 6 A.M. FRIDAY, NOVEMBER 7, 2003 TO FILE CONFERENCE REPORT ON H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until 6 a.m. Friday, November 7, 2003, to file a conference report on the bill, (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The SPEAKER pro tempore (Mr. PEARCE). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CARING FOR OUR VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, others have spoken tonight on specific issues before Congress that affect our Nation's veterans. I rise to say how proud I am of the men and women now serving in our Nation's Armed Forces in Iraq.

Mr. Speaker, as you know, I spent 3 days last week in Iraq as part of a Congressional delegation. I ate lunch and supper with our soldiers in Bagdad on Friday. Sunday morning I attended a worship service with our soldiers in Kirkuk. That day, I had lunch with our soldiers in Kirkuk and supper with our soldiers in Tikrit.

They slept on cots. They used port-a-johns, but their spirits were high and their dedication undimmed.

Our delegation stopped briefly in Germany on the way home. We visited soldiers at a military hospital in Landstuhl. Our military escorts told us what to expect. Regardless of the pain they were in, regardless of how their lives would be changed by their injuries, the patients we had talked to were soldiers, and when they spoke with us, they would soldier up.

I spoke with men who had grievous injuries. I heard not one word of complaint. I visited several of the soldiers who were on the Chinook helicopter that was shot down Sunday near Falujah. The medical personnel told us that it would help to encourage them to talk about what had happened. I will spare you the details of the injuries they suffered and that they saw their buddies suffer.

The gentleman from Hawaii (Mr. CASE) and I asked them what message they would have us deliver, what they wanted us to tell the folks back home. They said to tell folks back home to support our soldiers when they got home. And one told me to tell the soldiers in his unit that he loved them.

Another young man was wounded when his convoy was ambushed. They were ambushed with rocket-propelled grenades and small arms fire. A grenade landed near him and caused a traumatic amputation of his arm. A buddy applied a tourniquet and two of his buddies commandeered an Iraqi truck and evacuated him from the fire fight.

In the truck he said two prayers. The first is that he would live to be a father, that he would help his children with their homework, that he would take them to ball games, that he would watch them grow up. The second prayer was that the eight soldiers who remained behind would survive. And they all did. The young man had lost his arm, but he was grateful that the Lord had answered his prayers.

My visit to our soldiers in Iraq and in the hospital in Landstuhl reminded me of the duty our men and women in uniform feel in defending our Nation and of the sacrifices they are making in answering that call.

The benefits our Nation provides, our Nation's veterans are well-earned. They are the least we can do for those who defended our freedom at the risk of their lives.

Mr. Speaker, as a Member of Congress, I will do all that I can to honor our Nation's debt to those men and women.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. Mr. Speaker, I rise for the purpose of entering into the RECORD how I would have voted on issues before the House that I was unable to vote on on Wednesday, October 29 and on Thursday, October 30.

On rollcall No. 579, I was the sponsor of the resolution and would have voted yes. On rollcall No. 578, I was a cosponsor of the bill and would have voted yes.

On Thursday, October 30, on rollcall No. 580, I would have voted no. On rollcall No. 581, I would have voted yes. On rollcall No. 584, I would have voted no. On rollcall No. 585, I would have voted no. On rollcall No. 586, I would have voted yes. On roll 588, I would have voted no.

On rollcall 589, I would have voted no. On rollcall No. 590, I would have voted no. And on rollcall No. 594, I would have voted no.

On substantive votes, on rollcall No. 582, I would have voted yes. On rollcall 583, I would have voted yes. On rollcall 587, I would have voted yes. On rollcall No. 591, I would have voted no. On roll 592, I would have voted yes.

On rollcall No. 593, I have would have voted yes. On rollcall No. 595, I would have voted yes. On rollcall No. 596, I would have voted yes. On rollcall No. 597, I would have voted yes. On rollcall No. 598, I would have voted no. On rollcall No. 599, I would have voted no. On roll No. 601, I would have voted yes. On roll No. 600, I would have voted no.

The purpose for my inability to vote on these issues is, as the gentleman from North Carolina (Mr. MILLER) pointed out, there was a Congressional delegation that went to Iraq to visit with our troops and to inspect reconstruction and also to stop and visit our troops in the hospital at Landstuhl.

While this business in front of our House was extremely important, I believe that nothing was more important for showing our support for the troops and inspecting the conditions under which they must exist and survive.

In fact, I would just like to say that no matter how important this business was, nothing to me last week was more important than visiting with the troops at Landstuhl and to hear one of our fallen soldiers who had been in the Chinook say that he had gone through the most traumatic experience of his life and would not wish it upon his worst enemy. For in that moment he proved to me and all the world not only the bravery and courage of the American men and women in uniform, but their compassion as well.

MAKE VETERANS A PRIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, today I would like to join several of my colleagues who have already spoken tonight, including the gentleman from the great State of Ohio (Mr. STRICKLAND), and join him in talking about the plight of veterans in our country.

As Veterans Day is coming up next week, I thought it would be an opportune time to talk for a few minutes about what is going on in this country with our veterans.

We have Veterans Day, but really every day should be Veterans Day, but we designate a specific day as we do Christmas and birthdays to remind us as we go throughout the year that we have to continue the fight for our veterans. Unfortunately, the servicemen and women and veterans today are fighting on two fronts. They are fighting on the front in the Middle East and, unfortunately, they are fighting on the front back at home.

Back at home the veterans are not having too much success, and I would like to use one example of concurrent receipt. And for those people watching tonight who do not know what concurrent receipt is, it is basically a disabled veterans tax. If a disabled veteran gets a retirement from the military, not the disability benefits but a retirement pay check, the Federal Government will deduct from your disability benefits and you will only receive your military retirement. Some vets are losing 18, 20, \$25,000. You steal the benefits from their retirement, and you supposedly substitute that from what they should be receiving for their disability. So these are people who got hurt, who have earned in many ways the benefits that they are getting, but now they are not receiving them.

So someone came up with a plan. And what they are going to do is they are going to phase out this disabled veterans tax over the next 10 years. So someone who fought in World War II, in the 1940s and may be 80, 81 years old today, this plan says that you will not get your full disability for 10 years. So we are asking veterans who are 81 years old, actually, we are telling them, that they will not be able to receive their benefits until they are 91 years old. Talk about an outrage. Talk about an outrage.

The American Legion National Commander said, It is a matter of priorities in Washington, D.C. Four hundred thirty five thousand military retirees altogether, 135,000 disabled retirees will not qualify for full relief until 2014. Good luck.

In Ohio, my home State, full concurrent receipt would benefit if they did it right. If we paid the bill, if we paid these disabled veterans what we owe them, it would benefit 9,617 disabled vets.

Under the Republican plan, only 2,249 will be receiving the benefits, which leaves 7,368 disabled vets in the great State of Ohio left out in the cold.

Now, as the American Legion Commander said, Washington, D.C. is about

priorities. There is a lot of money down here to do different things, and it is about priorities. So I think it is all together appropriate to talk about what the priorities of this administration and the priorities of this Congress are.

Corporate tax rates are the lowest they have been since the 1930s. If you are a corporation today in America, you are getting just about everything you want. We have enough money down here for a tax cut for the top 1 percent. The top 400 families in this country get an average tax return of \$8,500,000.

We have passed free trade agreements that have eroded our manufacturing base. We have a farm bill that has more pork in it than a Christmas ham. We threaten vetoes of Buy American provisions, Buy American provisions in the Defense appropriations bill. This administration has threatened to veto the bill if it has Buy American provisions in it. We have enough money to rebuild Iraq's schools and hospitals and universal health care; and then what takes the cake is they have enough time and energy to remove the anti-profiteering provision of the Iraq supplemental. It is time for people in this country to be outraged. If we cannot take care of our veterans, who can we take care of?

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The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURPHY) is recognized for 5 minutes.

(Mr. MURPHY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent to take my Special Order time at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

HONORING JAY S. PIFER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, I rise today to recognize and honor Jay S. Pifer, a businessman and friend, as he plans his retirement after more than 40 years with Allegheny Energy Company, an integrated energy company with a balanced portfolio of businesses. At a

time when too many corporate leaders are failing in their obligations to their customers, employees, investors and community, it is a rare privilege to be able to honor a man who demonstrates on a daily basis what integrity and leadership truly mean.

Mr. Pifer, who began his tenure with Allegheny as an apprentice engineering technician, was named interim president and CEO before being named chief operating officer in June. Like many in the energy production and distribution business today, Allegheny has suffered significant erosion in its financial health which has resulted in a virtually completely turnover in the company's management. During this time of turbulence and upheaval, Jay served to hold the company together, facilitating the transition from the old management team to the new. Further, he agreed to stay on to help the new team while it got its bearings. During this period, Allegheny faced ice, snow and thunderstorms capped recently by Hurricane Isabel, and Jay and his crews performed spectacularly with speed and grace.

Financial troubles notwithstanding, Jay Pifer and Allegheny led the industry in customer satisfaction, named recently as second best on the East Coast. His dedication to his employees, customers, and community served by Allegheny is legendary, and we hate to see him leave. However, his dedication to his family and his faith is even greater, and we understand his desire to spend his time with those who have supported him during these 40 years.

Jay has held many leadership positions with the company, including president of Allegheny Power energy delivery subsidiary, which supplies power throughout the State of West Virginia, as well as Maryland, Pennsylvania, Virginia and Ohio. During that time, J.D. Power and Associates recognized Allegheny Power as the second best company in customer satisfaction in the East, and 10th best in the Nation with improvement in each of the last 10 years.

In addition to his service with Allegheny, Jay has been involved in many civic and community activities, only a few of which include serving on the boards of the United Way, the Business Round Tables of West Virginia and Pennsylvania, and the West Virginia Education Alliance. His commitment to young people includes a long association with the Boy Scouts of America, and he currently serves on the advisory board of the northeast region of the Boy Scouts. He is also an ordained lay Pastor in the United Methodist Church.

In what was described in the Washington Post as perhaps an unprecedented effort to showcase a new approach to conservation, Jay oversaw the sale of a large tract of Allegheny Power land to the Canaan Valley Institute which included one of the largest wetlands east of the Mississippi River, which will now be preserved as a habi-

tat for threatened and endangered wildlife, as well as public recreation. Land and stream management practices are being developed on this land as part of the Canaan Valley Institute's land and water stewardship education program. Jay was instrumental in the expansion of the Canaan Valley National Wildlife Refuge, the Nation's 500th national wildlife refuge.

On February 14, 2002, he once again demonstrated his commitment to conservation by engineering the sale of 12,000 acres to the refuge. I was honored to work with Jay on these land transfers which will benefit generations to come.

Mr. Speaker, it would be impossible to catalog here tonight all of Jay's accomplishments and contributions, yet these few examples illustrate what an outstanding gentleman Jay Pifer is.

Mr. Speaker, I ask my colleagues to join me in honoring Jay S. Pifer.

REIMPORTATION IS THE RIGHT PRESCRIPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this week's issue of Congressional Quarterly Weekly reports that on the subject of drug reimportation, FDA Commissioner Mark McClellan said the following in an October 20 speech to the National Press Club, "These Members are out of touch with the realities of keeping our drug supply safe, and the clear and present dangers to America's supply of drugs that their bills would create."

Evidently, it is Mr. McClellan who is out of touch with reality. Millions of Americans are finding prescription drug reimportation from Canada and other countries to be a viable and necessary alternative to high-priced drugs in the United States. The number of those Americans is growing every day. It would be wrong for Members of Congress to ignore this reality and to ignore the excessive cost of prescription drugs in America.

If Mr. McClellan thinks Americans are content to allow price gouging on prescriptions to continue, he is mistaken. American consumers are understandably fed up.

Large pharmaceutical manufacturers have long been gouging American consumers by charging substantially more, in some cases up to 90 percent more, for prescription drugs sold in the United States than in Canada and other industrialized countries. Americans refuse to be exploited by the pharmaceutical industry any longer. The exploitation of American consumers must end. The excuse that most of the world's pharmaceutical research and development takes place in America does not justify the continued degree of cost shifting onto the backs of American consumers. Profit levels of American, foreign, and multi-national pharmaceutical firms are huge, as is the

level of their advertising budgets and their level of inducements offered to prescribing physicians.

This Member firmly believes that many of the safety issues which opponents have brought to the forefront in this debate are really red herrings. The real issue is the prices Americans pay for the medicines they need.

According to a recent Washington Post-ABC News poll, there is strong support for opening drug markets, despite warnings by FDA that it cannot guarantee the safety of these life-saving medicines. Even with the possibility of a drug safety issue being mentioned in the question, more than two-thirds, or 69 percent of respondents, said it should be legal for Americans to buy prescription drugs from Canada or other industrialized countries. In fact, 12 percent of those surveyed said that they or a family member had purchased prescription drugs from Canada or other country in order to obtain a better price.

The reimportation debate is not a battle of right versus left, it is a battle of right versus wrong. It is simply wrong to require Americans to pay the world's highest prices for prescription drugs, so they thereby can subsidize consumers everywhere else on earth to generate the research, advertising and profit revenues for pharmaceutical companies.

As a Member of Congress serving in the people's House, this Member has a responsibility to do what is right for Nebraskans and all Americans. This Member supports prescription drug reimportation because Americans deserve access to quality drugs at world market prices and reimportation seems to be the only solution immediately available to reduce the gross overcharge of American consumers for prescription drugs.

A typically cynical comment was made by an unnamed health care lobbyist found in the November 1, 2003, Congressional Quarterly Weekly regarding the Medicare bill and the likelihood that the final bill will include importation provisions that will never be implemented. The unnamed source is quoted as saying, "You tell them that this will only kick in after FDA has appropriated \$100 million for border safety, or FDA has a counterfeit, tamper-resistant device packaging system in place." The lobbyist concluded, "Whatever the trigger is, just say it will never be met."

Mr. Speaker, there have been rumors that the Medicare conference report will come out of committee with a drug reimportation provision which will contain language under which the FDA can say they cannot responsibly or legally implement, as they did on two previous congressional efforts to provide for prescription drug reimportation. This is unacceptable.

Governor Rod Blagojevich, our former colleague in the House, is asking the FDA to allow Illinois to explore a plan to import approved medications

from Canada, and knows this issue well. He recently said, "It is awfully hard to stop an idea whose time has come." He is absolutely right in that assessment. Americans will find a way to buy FDA-approved drugs from abroad, either legally or illegally. The FDA needs to face the fact and get on with the method of discharging its responsibilities given those realities.

Mr. Speaker, there is a serious call for action from the American people. We must open the drug markets so Americans can obtain the prescription drugs they need when they need them most and at affordable prices.

Mr. Speaker, I include for the RECORD an article published in the Los Angeles Times today entitled, "Open Door to Drug Imports."

[From the Los Angeles Times, Nov. 6, 2003]

OPEN DOOR TO DRUG IMPORTS

In the 2002 election cycle, the U.S. drug industry gave political candidates nearly \$30 million. For the 2004 cycle it has already spent more than \$3 million, two-thirds of it on GOP members of Congress. The industry is getting a good return on its money. Bush administration officials and sympathetic legislators are still trying to add a \$400-billion drug benefit to Medicare that prohibits, not just omits, cost controls. House and Senate conferees have proposed forbidding the federal government to negotiate better prices, as such countries as Canada and agencies as the Department of Veterans Affairs do.

The glimmer of good news is that at least one consumer-friendly reform may survive. The conferees, pressured by state and local leaders, last week began considering an amendment to let consumers buy drugs directly and more cheaply from Canada.

The Bush administration and most legislators on the conference committee, including some Democrats, say it is dangerous to legalize drug purchases from Canada. They echo Food and Drug Administration head Mark B. McClellan's line that the agency can't guarantee the safety of drugs that aren't manufactured, stored and distributed under FDA guidelines. McClellan says he fears tampering by shippers as well. Canada, however, has one of the world's most stringent pharmaceutical quality oversight systems. As for adulteration in shipping, that can happen in any mail-order operation.

Californians are right to ask why importation from Mexico, which also has lower prices than the U.S., was excluded. Legislators argue that Mexico's prescription drug oversight is too lax, but it's also because strong proponents of drug importation—Reps. Bernard Sanders (I-VT.), Gil Gutknecht (R-Minn.) and Jo Ann Emerson (R-Mo.)—are in states closer to Canada.

A temporary solution, which the Canada measure would be, is better than no solution. Plenty of individuals and even municipalities are already importing from Canada, mostly over the Internet. Legalizing the practice would allow for better safety regulations.

On Tuesday, two top negotiators on the conference committee, Rep. Bill Thomas (R-Bakersfield) and Sen. Edward M. Kennedy (D-Mass.), said the Medicare drug benefit was "on life support," imperiled by partisan disagreements. That's good news, because the bill would create a gigantic, cost-ineffective benefits shaped behind closed conference doors.

Regional leaders whose budgets are being busted by drug prices—including Minnesota

Gov. Tim Pawlenty and New York City Mayor Michael R. Bloomberg, both Republicans—are pressuring the conferees to pass the Canada measure even if a larger Medicare drug benefit dies. As Pawlenty recently framed the issue: "There's a rebellion brewing across America. It is the prescription drug equivalent of the Boston Tea Party."

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

(Mr. EDWARDS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

WHAT IS THE PLAN IN IRAQ?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, today the President signed the bill taking \$87 billion to deal with Iraq.

I will include for the RECORD an article from the Everett Herald entitled, "Parents Who Protested War Mourn Death of Soldier Son." This man from my district leaves behind a wife who is pregnant to deliver in 1 month and two small girls.

As we held the memorial service today for the 15 troops that were killed on Sunday in Iraq when one of our Chinook helicopters went down, I could not help thinking about the memorial service that will be held for the person who died last night and the one who died this morning, and there will be more and more. The memorial service for Benjamin Colgan from my district is down the road yet.

This morning I spoke about the President's need to present a plan for stopping the bloodshed. As far as we know, there is no plan. Our experience shows us there was no or little planning about what would happen after the military action stopped. They have never stopped because there was no plan. Now, apparently we are going to sit in Iraq while the President continues to say "bring 'em on" until the war on terror is won, until Iraq has free enterprise, until Iraq has good roads, until Iraq loves Americans. Well, it is not going to happen.

The war on terror is much like the war on drugs or the war on poverty, we have to keep at it, but we are not going to defeat the enemy and get a surrender sign on the battleship Missouri. If the President says we are going to keep troops in Iraq until the war on terror is over, then the President is planning to keep troops in Iraq forever.

Maybe the Iraqis are ingrates or foolish, or maybe they are reacting like people have reacted since time immemorial to occupations. Many have lamented the way the President squandered the good will of the nations of the world after September 11. Now, the President is squandering the goodwill of the Iraqi people, most of whom were

happy to have Saddam Hussein removed.

I did not, and I still do not, believe that removing a foreign dictator is sufficient reason for the United States to invade another country. If it were, we would be invading dozens of countries. But the fact is that removal of Saddam Hussein was a gain for the Iraqi people and the United States for a short time had their gratitude. Now, that we have moved from being liberators to occupiers, that gratitude is fast drying up.

Our troops are not safe. Our leaders have gone to such lengths to identify nongovernmental groups like the Red Cross and Doctors Without Borders that they are not safe either, and they are leaving. The status quo is not sustainable. We need to plan what will replace the status quo.

What I fear is that in the absence of a plan, we will stumble down the path with a paper Constitution in December and an improvised election which will signal our withdrawal, and will leave Iraq in chaos because we did not bring the United Nations in to set things up.

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Mr. Speaker, we need a plan. We need to know what the benchmarks are, what the goals are, what the test is about when we will leave. I think that the President's case for war was shoddy. I think the planning for the post-war period was shoddy or perhaps nonexistent. With body bags arriving in Dover virtually every day, we cannot afford a shoddy, years-long occupation. Americans are targeted in Iraq in a way that United Nations blue helmets would not be, in a way that a force from countries in the region would not be, in a way that we cannot sustain.

We have to plan to get out, sooner rather than later. It is the only chance for Iraq to have a fresh start, and it is the only chance for a lot of young Americans to come back alive. To fail to do this, to lay out the plan, what we are going to do and how we are going to get out so that the whole world can see, is the only hope of getting the Iraqis to stop killing our people. The failure to do that, the stonewalling by our President and taking the money we gave him, \$87 billion more to keep on doing what he is doing, we are in for a long siege.

[Published on HeraldNet.com, Nov. 5, 2003]

PARENTS WHO PROTESTED WAR MOURN DEATH OF SOLDIER SON
MAN WAS BECOMING SKEPTICAL OF U.S. SITUATION IN IRAQ

KENT.—As a boy, Benjamin Colgan marched with his parents in peace protests. Joseph and Pat Colgan, 62 and 60, respectively, whose activism dates from the Vietnam War, were surprised when their son enlisted in the Army. But they continued to support him, even as they opposed the war in Iraq.

On Monday, their worst fears came true. Colgan, 30, a second lieutenant, the father of two young daughters with a third child due next month, died Saturday when a roadside bomb exploded as he responded to a rocket-propelled grenade attack in Baghdad, the Defense Department said.

A U.S. flag hung outside the family's home Monday. Funeral arrangements were pending.

Word came with a knock on the door at the Colgans' home.

"I saw the cross on his lapel pin and I said, 'No, not my son! Not my son!'" his mother said.

"There will be many people experiencing the same thing," she added. "This war, it shouldn't be."

Benjamin Colgan was assigned to the 2nd Battalion, 3rd Field Artillery Regiment, 1st Armored Division.

His parents were concerned when he gave a dim appraisal of Baghdad in an e-mail Friday.

"What raised a red flag was when he said, 'It's getting real old and getting real crazy,'" his father said.

As a young child, he had joined his parents on marches to protest nuclear weapons at Naval Submarine Base Bangor. Then, to pay for college, he enlisted in the Army after graduation from Mount Rainier High School in Des Moines in 1991.

"That was hard, but you support your children," his mother said.

She and her husband joined protest marches again against the war in Iraq this year.

They tied a yellow ribbon around the maple in their front yard, a tree they had planted when Benjamin Colgan was born. On Monday, they replaced it with a black ribbon.

Benjamin Colgan initially planned to become a medic, but joined the Special Forces and then Delta Force, the military's most elite and secretive unit.

He left to attend officer candidate school, was assigned to the 1st Armored Division in Germany after graduation, and hoped to return to Delta Force after earning his captain's bars, his father said.

His mother says his death has only strengthened her position against the war.

"People keep asking, 'Are the Iraqis better off?'" she said. "What we have to start asking is, 'Are we better off?' And we're not. We're losing our children."

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota (Mr. POMEROY) is recognized for 5 minutes.

(Mr. POMEROY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

(Ms. EDDIE BERNICE JOHNSON of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

COMMEMORATING VETERANS' DAY 2003

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of my Special Order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, tonight I rise with fellow Members of the Congressional Black Caucus and other Members of Congress to salute this Nation's veterans in commemoration of Veterans' Day next Tuesday. Mr. Speaker, it is a very special day for so many of our men and women who have given their blood, their sweat, and their tears to defend the lives that we live in this country. Many of them have given their lives standing up for what America is all about.

And so it gives me great honor to yield 20 minutes to my distinguished colleague from the great State of Missouri and the ranking member of the House Armed Services Committee, Congressman IKE SKELTON, for his remarks.

Mr. SKELTON. Mr. Speaker, let me first thank my friend and colleague from Maryland for the honor of addressing the House at this moment. I much appreciate it.

Mr. Speaker, recent press reports have indicated that the administration is planning to begin the withdrawal of American forces from Iraq in the spring of 2004. Based on recent visits to my congressional district in Missouri, I believe such a move would be very politically popular. Overwhelmingly, the

people want our troops brought home as rapidly as possible. I, too, want to bring them home.

However, if we have learned anything from recent history in Baghdad, it is that poor planning for the occupation has contributed to the dangerous and confused situation in which we find ourselves. I was concerned about planning for the occupation last year. In fact, Mr. Speaker, I wrote to the President on two occasions, first on September 4, 2002, and second, on the eve of the war, on March 18, 2003. My letters detailed the potential problems our forces might encounter during the postconflict occupation of Iraq, and I submit copies of those letters for the RECORD.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 4, 2002.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Thank you for inviting me to the briefing this morning. I share your concern about the continuing threat posed by Saddam Hussein and his efforts to produce weapons of mass destruction (WMD). I would like to offer my assistance as the administration considers how to deal with this threat.

Before Congress can authorize any military action that might be part of the administration's plan, we must have answers to more questions than were about to be raised at today's meeting. Our constitutional duty requires us to ensure that all implications of such action are considered in advance. The case has not yet been fully made as to what the threat is, why military force is an appropriate way of addressing the threat, and why action must occur now. In short, Congress and the American people must be clear on your strategic vision before we can authorize a specific course of action. I believe, like Clausewitz, that in strategy there is an "imperative . . . not to take the first step without considering the last."

Your strategy for dealing with Iraq must address the fundamental questions of the threat, the method of acting, and the timing. Furthermore, any strategy to eliminate Iraqi WMD must also address several component issues, each of which raises critical questions.

HOW TO MANAGE IRAQ'S TRANSITION TO A STABLE POST-SADDAM REGIME

As I mentioned to you this morning, this is a critical question for administration strategy to answer in advance of any military action. I have no doubt that our military would decisively defeat Iraq's forces and remove Saddam. But like the proverbial dog chasing the car down the road, we must consider what we would do after we caught it.

As Sun-Tzu said in the classic strategic treatise, *The Art of War*, "To win victory is easy; to preserve its fruits, difficult." Military planners and political leaders alike knew this in World War II. Planning for the occupation of Germany and Japan—two economically viable, technologically sophisticated nations—took place well in advance of the end of the war. The extreme difficulty of occupying Iraq with its history of autocratic rule, its balkanized ethnic tensions, and its isolated economic system argues both for careful consideration of the benefits and risks of undertaking military action and for detailed advanced occupation planning if such military action is approved.

Specifically, your strategy must consider the form of a replacement regime and take

seriously the possibility that this regime might be rejected by the Iraqi people, leading to civil unrest and even anarchy. The effort must be to craft a stable regime that will be geopolitically preferable to Saddam and will incorporate the disparate interests of all groups within Iraq—Shi'a, Sunni, and Kurd. We must also plan now for what to do with members of the Baath party that continue to support Saddam and with the scientists and engineers who have expertise born of the Iraqi WMD program.

All these efforts require careful planning and long-term commitment of manpower and resources. The American people must be clear about the amount of money and the number of soldiers that will have to be devoted to this effort for many years to come.

HOW TO ENSURE THE ACTION IN IRAQ DOES NOT UNDERMINE INTERNATIONAL SUPPORT FOR THE BROADER WAR ON TERRORISM

In planning for military operations in Iraq, we cannot ignore the lack of international support to date. Pre-emptive action against Iraq is currently vocally opposed by many of our allies and friends throughout the world and particularly in the Middle East.

When we are seen as acting against the concerns of large numbers of our friends, it calls into question the "humble" approach to international relations you espoused during the presidential campaign. More than that, it has several potentially damaging long-term consequences. First, it risks losing the large number of partners needed to prosecute the global war on terrorism. To ferret terrorist groups out of their many hiding places, we must have broad allied support. Second, it risks seriously damaging U.S. moral legitimacy, potentially providing states like India and Pakistan with a pre-emptive option that could drive long-standing conflicts beyond containable bounds.

Finally and perhaps most dangerously, actions without broad Arab support may inflame the sources of terrorism, causing unrest and anger throughout the Muslim world. This dynamic will be worse if Iraq attacks Israel—perhaps with weapons of mass destruction—and draws them into the conflict. Iran, which has the potential to seize a reformist path, may well move away from the United States in the face of attacks that could next be taken against them. Together, these dynamics will make achieving peace in the Middle East more difficult and may well provide the rationale for more terrorist attacks against Americans.

These concerns do not make military action in Iraq untenable. They do, however, highlight the depth and importance of the issues to be addressed before we strike. We need to ensure that in taking out Saddam, we don't win the battle and lose the war.

HOW TO ENSURE THAT THE UNITED STATES CAN EXECUTE THIS OPERATION SUCCESSFULLY AS WELL AS ITS OTHER MILITARY MISSIONS

As you are well aware, Mr. President, the consideration of military action against Iraq comes at a time when U.S. forces are actively engaged throughout the world in a range of missions. Given the operational pressures these forces currently face, we must ask what the risks and trade-offs will be of defeating Iraq, particularly if Iraqi forces mass in Baghdad for urban operations. How many casualties must the American people be prepared to take in a worst-case scenario? What will the impact of sustained operations be on so-called high-demand, low-density assets? What military operations might we have to forego because of continued demands in Iraq? Will we still be prepared for the range of other threats that might emerge throughout the world? With little allied support and contributions, will

we still be able to maintain military spending on transformational technologies and on sound quality of life for our forces if we are bearing a huge wartime cost alone? What will be the impact on the domestic economy of these resource drains and of the long-term costs of reconstructing Iraq? These questions must be answered before any military action commences so that the American people understand the risks and the sacrifices involved.

I ask these questions only to highlight the complexity of the undertaking and the need for Congress, the American people, and our friends around the world to understand exactly what is at stake and why we must act now. Only such a comprehensive strategic approach will ensure that we commit U.S. troops consciously and with full knowledge of the range of challenges we face—both in the initial campaign and in the long aftermath to follow. Even a strategy that has military action as its centerpiece will require great diplomatic efforts to ensure its success. I look forward to hearing the administration's answers and to working with you to find the best course of action.

Sincerely,

IKE SKELTON,
Ranking Democrat.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 18, 2003.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: This is a critical week for our nation and for the world. As you prepare to make the most difficult decision of sending our troops into combat, the thoughts and prayers of all Americans are with you. My colleagues here in Congress have many different views on the wisdom of action in Iraq and the severity of its consequences. But we are united in our support for all the men and women who serve this nation.

There is no doubt that our forces will be victorious in any conflict, but there is great potential for a ragged ending to a war as we deal with the aftermath. I appreciate the efforts that members of your administration have made to keep me informed about plans for the administration and reconstruction of Iraq following military conflict. Your team has thought about many of the things that will need to be done.

Secretary Rumsfeld frequently talks about the list he keeps of things that could go wrong in an Iraq war. I have kept my own list—of things that could go wrong after the war is over. The list below is indicative of this broader list. My hope is that this will be helpful to members of your administration as you continue to plan for all possibilities. These are not complete scenarios but rather a series of possible problems that could occur in some combination.

INTERNAL DIVISIONS AND EXTERNAL INFLUENCES IN IRAQ

Without access to Iraq through Turkey, U.S. troops are not present in northern Iraq in large numbers. Turkey enters northern Iraq to establish a buffer zone and fighting breaks out between the Turks and Kurds. A significant U.S. military force is needed to separate the groups, complicating the governmental transition and international support.

An uprising in Kirkuk leaves the Kurds in control of areas of the city and surrounding area. This triggers a large Turkish invasion to protect the Turkmen minority and to prevent Kurdish control of oil resources. Again this would require U.S. military resources with all the attending effects.

In the event that Turkey crosses into Iraq, Iran may do the same, ostensibly to stem the

refugee flows from southern Iraq and to protect Shi'a interests.

Shi'a populations in the south rebel and undertake attacks against Sunnis. U.S. troops must step in to protect the Sunnis and restore peace. These tensions resurface during attempts to build a federal and representative government.

Urban fighting in the south brings Shi'a into conflict with Sunnis. The resulting devastation causes a refugee crisis as Shi'a make for the Iranian border. The results of Saddam's policy of forced Arabization of areas like Kirkuk yield dangerous consequences. Groups like the Kurds flow back into these areas seeking to reclaim their former homes and land, sparking conflict with Iraqi Arabs.

Attempts to fashion a federal government in Baghdad prove difficult. Iran is able to establish proxies for its influence among the Shi'a representatives. Once in Iraq, infighting breaks out among members of the former Iraqi opposition in exile. The United States is unable to transition the administration of Iraq effectively and has to remain in place, with significant military backing.

The war involves lengthy urban combat, particularly in Baghdad. Most infrastructure is destroyed resulting in massive humanitarian problems. The emphasis on humanitarian aid distracts from efforts to establish a new government. Once established the government faces massive political pressure from the sustained humanitarian crisis.

WEAPONS OF MASS DESTRUCTION

Saddam uses biological and chemical weapons against advancing U.S. troops, but also inflicts substantial civilian casualties. Efforts to stabilize cities and to establish a government are complicated by the need to deal with the large number of dead and to decontaminate affected areas.

Saddam uses biological and chemical weapons directly against civilian populations or against another Arab country and seeks to affix blame for civilian suffering to the United States. Over the period of occupation, this resentment complicates U.S. efforts to maintain support for reconstruction efforts.

U.S. troops are unable to quickly find all of Saddam's capabilities, requiring a long, labor-intensive search and anxiety as to when the task is complete.

Regional leaders, for money or to gain influence, retain caches of WMD and transfer some to terrorist groups.

Saddam attacks Israel with missiles containing weapons of mass destruction. Israel retaliates. Arab countries, notably Saudi Arabia and Jordan, come under intense political pressure to withdraw their support from the U.S. war effort. U.S. forces are forced to reposition operational centers into Iraq and Kuwait, complicating reconstruction and transition efforts.

OIL RESOURCES

Saddam sabotages a significant number of wells before his defeat. Current estimates indicate he may already have wired up to 1,500 of these wells. The damage takes years to contain at great economic and environmental cost and removes a major source of reconstruction funding.

Internal groups, such as the Kurds, seize oil-rich land before American troops reach the area, causing internal clashes over these resources. Militant Shi'as seize other wells in the South.

INTERNATIONAL SUPPORT

The United States takes immediate control of Iraq's administration and of reconstruction. The United Nations can't agree on how involved to get given the divisions among the Security Council about the need for conflict. The lack of UN involvement in

the administration makes the European Union and others less likely to give. This situation delays reconstruction and puts more of the cost on the United States and a smaller number of partners.

U.S. reconstruction efforts that give U.S. corporations a great role at the expense of multilateral organizations and other participation—as was detailed in yesterday's Wall Street Journal—spur resentment and again limit the willingness of others to participate.

AMERICAN COMMITMENT

Stabilization and reconstruction prove more difficult than expected. U.S. troop requirements approach 200,000—the figure General Shinseki has mentioned—for a sustained period. This puts pressure on troop rotations, reservists, their families, and employers and requires a dramatic increase in end-strength.

Required funding reaches the figure suggested by a recent Council on Foreign Relations assessment—\$20 billion annually for several years. During a period of economic difficulty, the American public calls for greater burdensharing.

It is my hope that none of these eventualities comes to pass. But as you and all military leaders know, good planning requires considering the range of possibilities. It also requires advance preparation of the American people. You have regularly outlined the reasons for why the United States must disarm Iraq. I urge you to do the same in explaining why we must stay with Iraq for the long haul, even with the economic and military burdens this will entail.

As always, I am willing to help in any way I can to make this case to my colleagues and the American people.

Sincerely,

IKE SKELTON,
Ranking Democrat.

Mr. Speaker, I regret that my advice went unheeded. I believe that the poor planning for the occupation of Iraq approaches dereliction of duty. The looting and political chaos that resulted in the wake of the war was not adequately anticipated. The terrible shape of the utilities and of the Iraqi oil industry was misjudged. Our allies were not brought along adequately. Because of the rolling start of the war, not enough forces were on the ground. All in all, a painful lesson was learned, a lesson that many young military officers learn early in their careers: proper planning prevents poor performance.

It is imperative that any plans to withdraw our forces from Baghdad be properly planned. We must have a clear strategic goal, and specific steps must be identified that we must follow in order to achieve that goal. Moreover, those steps must be objective and must be measurable. An early exit means retreat or defeat.

For the administration to pull our forces out early for the wrong reasons, let us say for the sake of the upcoming Presidential elections, before we have achieved our objectives is irresponsible in the extreme. It risks creating a political vacuum with its resulting chaos. And into that vacuum, I assure you forces of terrorism and radical Islam will step. Our objective in going into Iraq was not only to eliminate weapons of mass destruction and to combat terrorism but also to plant the seeds for democracy and real change in the region. Mr. Speaker, that is a worthy

goal; but if we pull out early before Iraq is well launched toward democracy, we will have sown the seeds of chaos and defeat far worse than we can imagine. No one can predict the consequences of that chaos, except those consequences will not be good.

We have not seen the President's plans that will enable the military to begin to withdraw its forces. All we have seen are leaks about the Pentagon's plans to begin the withdrawal. We have, however, seen a series of statements by Ambassador Bremer with respect to the seven steps necessary for the return of "sovereignty" to the Iraqi people. Those are good steps, but in my opinion they do not go nearly far enough. First, they are directed only to the handoff of full governmental responsibility to the Iraqi people. Second, they do not address the conditions to make a successful handoff necessary. And third, they do not address a much wider range of deeper, long-term problems.

Here are the six steps that I believe the President should adopt as necessary measures to be achieved before our forces are withdrawn:

One, there must be a secure environment. Basic public services must be reestablished. For example, there must be adequate Iraqi police and courts to deal with public safety concerns and criminal acts. Another key element is that there should be no appreciable presence of al Qaeda in Iraq. Saddam Hussein, remember him?, must be captured or we must know he is dead. If he is captured, we must be confident that the Iraqis have an adequate judicial system to deal with him and that he is no longer a threat to us or to the Iraqi people.

The Iraqi army must be reconstituted, at least insofar as necessary to provide for basic security needs and to secure Iraq's borders. Iraq must make certain that neither terrorists nor weapons of mass destruction come across its borders.

All weapons of mass destruction must be accounted for and the basic production facilities for weapons of mass destruction must be destroyed. In addition, the vast arsenal of conventional munitions, mortar and artillery rounds, small arms, rockets and missiles must be accounted for and either destroyed or secured.

Two, basic services. Much progress has been made in getting the lights and electricity back on, but much more remains to be done. Water, roads, sewers, bridges, indeed, the whole transportation network, needs to be repaired or well on its way to being repaired. The education system must be modernized, the universities reinvigorated. This does not need to be accomplished prior to our withdrawal, but we and the Iraqi people must be confident that progress is being made because in the absence of progress, there can be no confidence that democracy will take root and will succeed.

Three, the establishment of a new constitution. I agree with the procedures laid out by Ambassador Bremer. We must move as rapidly as possible to sponsor the drafting of a constitution that reflects the genuine aspirations of the Iraqi people. In that regard, I note that Ambassador Bremer did not call for the Bill of Rights for the Iraqi people. He did not call for essential internationally recognized human rights to be adopted as part of the constitution. Mr. Speaker, I believe nothing is more important than the adoption of these basic human rights, including respect for the individual, due process in courts, full political and economic rights for women, and freedom of the press.

Four, the basic elements of a government must be in place. The Iraqi Governing Council is a start, but the members of that body have been selected by us. We need to move rapidly to put in place a government that is respected by the people. I worry greatly that if we do not rapidly begin to give the Iraqis greater authority over their day-to-day affairs, hard-liner Islamic fundamentalists like Sadr with private militias of their own will try to take power. These militia are willing to use violence to pursue their political objectives to establish an Islamic state. We cannot let chaos reign and these Islamic fundamentalists take power.

In that regard, it is imperative that the new government be one that respects democratic institutions. For example, the army, police and security services must be ones that are accountable to their democratic leaders. Any former members of the Baath Party who take positions of responsibility must be properly vetted and be individuals in whom we and the Iraqis have confidence that they will respect democratic institutions.

Five, the economy. It is also imperative that major steps be made toward getting the economy going again. We did not adequately anticipate the terrible shape of the Iraqi oil industry, and oil revenues have been a disappointment. Progress is being made, but more needs to be made before we can be confident that the Iraqis can take over. Other areas of the economy are also in shambles, and much work must be done. Entrepreneurs in Iraq, in this country, and among Iraq's neighbors and our allies must be given the opportunity to move in as rapidly as possible and get the economy going again. An essential element of that, of course, is a secure environment and a functioning judicial system that is regarded as sufficiently open and fair as to encourage and support foreign investment.

Six, international support. We must ensure that there is wide support in the United Nations, among our allies, and with Iraq's neighbors for the rebuilding measures we have taken. They must be willing to commit forces where necessary and resources when available to help rebuild Iraq's infrastructure, sup-

port its government, and grow its economy. They must be committed to supporting democratic institutions as they emerge.

Mr. Speaker, if the President does not adopt a strategy of incorporating these six points, I believe a premature withdrawal of American forces would lead to a disaster. I want all the forces to come home as rapidly as possible, but I also want the mission to succeed.

Americans are fond of saying, "These colors don't run." Well, Mr. Speaker, I do not want to run before we have done our job. The sacrifices of all of our brave men and women who have died or have been wounded must not be in vain. The losses and sacrifices made by the Iraqi people must not be in vain. The stakes are just too great. We must accomplish our mission, and the President must lay out a strategy to achieve those objectives before he begins the withdrawal of American forces. To do otherwise is to sacrifice national security for political survival.

Mr. CUMMINGS. Mr. Speaker, I want to take a moment to thank the gentleman from Missouri for his service and the position that he holds. We in the Congress, of course, look up to him as our ranking member of the House Armed Services Committee for his advice on our veterans and on military matters, and I appreciate his service.

Mr. Speaker, given that our country is currently engaged in a war in both Iraq and Afghanistan, the members of the Congressional Black Caucus feel compelled to pay homage to our soldiers at home and abroad.

□ 2045

Our brave men and women continue to risk their lives in order that others may enjoy freedom. In fact, we have come to the House floor on numerous occasions to express our appreciation for the dedication, courage, and sacrifice of our Armed Forces. Tonight Mr. Speaker, the Congressional Black Caucus again stands before this House to honor those currently serving in the over 100 nations around the globe where the United States military has operations, and we especially pause to remember those who laid the foundation for our freedom.

Mr. Speaker, the United States military is among the most diverse institutions in our country; and it is this diversity in gender, ethnicity, skill, and talent that contributes most to our military's awesome strength. Throughout history, heroic citizens of our great Nation have transcended individual prejudice and intolerance to unite in the pursuit of liberty and in their valiant protection of our borders.

However, many of these same individuals have too often been unrecognized and forgotten once the final shot has been fired and the last drop of blood has been shed. So as my favorite theologian Charles Swindoll, who has penned these words that are imbedded in the DNA of every cell of my brain, Swindoll says "The greatest deeds

often performed are those that are performed by those who are unknown, unseen, unappreciated, and unapplauded." And we want to make sure that our veterans do not fall into any of those categories.

And it was the gentleman from Illinois (Mr. EVANS), my good friend, the ranking Democrat on our House Committee on Veterans' Affairs, who penned these words, and they are just so brilliant, I just wanted to repeat the gentleman from Illinois' (Mr. EVANS) words. He said, "50 million have held the venerable title of veteran. More than 1 million have died while wearing the uniform. It is this generation's responsibility, and that of every subsequent generation, to make sure the numbers have faces, lives that connect to them. We are losing 1,500 veterans a day. Each death represents a life, another rich, colorful, dynamic, dramatic, brutal, or heartening story. The gentleman from Illinois (Mr. EVANS) goes on to say: "The only way this and future generations can hold dear to what our veterans have done, can understand the sacrifice, is to record and share their stories and to continue the traditions of honoring their service such as those observed on November 11. We must not lose their deeds to time or neglect. The greatest gift in return for what these extraordinary individuals have given us is to make certain their lives and experiences are perpetuated, to recount their sacrifices to every generation." Finally, he goes on to say: "War may begin over real estate, mineral rights, religion, or boundaries, but ultimately it is about people and lives. It is about one man or woman seeking to make certain that the next one can live freely and have a say in his or her own destiny. It is about sacrifices to ensure our Nation and world in which the rights of the individual are acknowledged, respected, and cherished."

Mr. Speaker, I yield to the wonderful gentlewoman from the great State of California (Ms. LEE), the daughter of a veteran.

Ms. LEE. Mr. Speaker, first let me thank the gentleman from Maryland, our chairman, for once again organizing this very important special order tonight recognizing the service of Americans veterans. Once again, let me just commend the gentleman from Maryland (Mr. CUMMINGS) for his leadership and for ensuring that our country understands and recognizes that the Congressional Black Caucus stands tall here in this Congress on each and every issue with which our country is faced.

Yes, I am a very proud daughter of a veteran, and I represent a State which boasts the highest veteran population, ensuring that veterans receive their benefits of course, and recognition for their contributions is, therefore, a major priority for me. We owe every veteran around this country an enormous debt of gratitude. And we here in Congress really do have the opportunity and the obligation to honor that

debt by providing veterans with the benefits that they were guaranteed, including adequate benefits for veterans, surviving spouses and families, burial rights, health care, disabled tax credits, and home loan assistance. This issue, as my colleagues know, is not a partisan issue but a fundamental issue of fairness.

In July, during consideration of the fiscal year 2004 VA-HUD appropriations bill, my colleagues on both sides of the aisle were really, quite frankly, embarrassed by the Republicans' leadership attempt to shortchange to the tune of \$1.4 billion those who sacrificed the most for our Nation. So yesterday this body unanimously voted to increase a host of veterans' benefits. But it has yet to deal with the most pressing veterans' issues like concurrent receipt legislation which would extend full retirement and health care benefits and end the practice of unjustly subtracting disability payments from veterans' pensions, creating, in effect, a special disabled veterans' tax. So that is why we have filed a discharge petition to bring H.R. 2569, the Salute to Veterans and the Armed Forces Act of 2003, to the floor. And tonight I call upon my Republican colleagues to join us in eliminating this unfair and very outrageous tax on our Nation's veterans.

Mr. Speaker, on November 11 we will remember our veterans, as we should really do each and every day. Injustice in housing must end. It is shameful that veterans are twice as likely to become homeless as nonveterans, and female veterans are about four times as likely to become homeless as their counterparts. It is also shameful that despite the fact that 76 percent of these veterans are on the street in large part due to alcohol, drug, or mental health problems, or a combination, quite frankly, of all three, that we here in Congress fail to provide the necessary resources to help them get back on their feet.

Looking back on the plight of so many of our Nation's homeless veterans, I cannot help but think and remember that so many are the victims of the 1980's and "Reaganomics" and today's struggling economy, and I am outraged that we are allowing their numbers to grow.

Finally, when we talk about the veterans and the failures of this country to fulfill its promises to them, we must also discuss and recognize the racial disparities and discriminations that affect every aspect of American society including, yes, veterans. People of color have served this country in numbers far out of proportion to their percentages within population.

How is this the case? The harsh truth is that economic forces oftentimes compel minorities to assume the risks of service, yet historically they have not received its rewards in equal measure. The truth is African American veterans were denied employment opportunities, education, housing, and, of

course, jobs returning to America after fighting for America. I remember this very well. They are truly heroes. They are real patriots.

The creation of the Bureau of Colored Troops during the Civil War, the famous Buffalo Soldiers of the Indian Campaigns, the 92nd Division and the 761st Tank Battalion and African American women, who served in the Women's Army Corps and the Waves during World War II, and the 24th Regiment of the Korean War are only a few examples of the famous and forgotten African Americans who defended this Nation.

In many ways our military has become the most integrated institution in this country. Despite its advancements, however, in the treatment of blacks and minorities in the military, there remains issues that really do need to be addressed, legacies of biased drafting procedures, advancement, honors, distribution of benefits, and really back to it, the treatment upon coming back home after returning from active duty.

We must honor the legacy of all veterans as members of the Congressional Black Caucus tonight are doing. We choose to highlight the service of African American and other minority veterans. We respect their service and their role really as leaders. And I would like to just thank all of those who have contributed to American history for their service and for their sacrifice. This Congress must step up to the plate and put our money where our mouth is in a very real way, and that is to support our veterans.

In a note from the Veterans for Peace organization, I was reminded that Veterans Day was once called Armistice Day, the anniversary of the end of World War I, of course, the "War to end all Wars." Tragically, that war has been followed by many others. Let us honor our veterans by working each and every day for freedom, for peace, and for justice.

Once again, I want to thank the chairman of the Congressional Black Caucus for his unbelievable leadership, focus, and for his commitment to honor in a real way our veterans.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentlewoman for her comments, and I just want to talk to her for just a moment.

She said something that really touched me, and I think that many people who have moved throughout our neighborhoods know this, but there are so many veterans who are homeless, and it is so painful. When I go to our drug treatment centers, it is not unusual for me to just sit down and talk to the people there and just find out a little bit about their history. And I notice that it is interesting that when people who are a little bit older, I would say maybe one out of every six or seven that I talk to is a veteran, and a lot of them are, of course, complaining about various things, but the fact is a lot of them link a lot of their problems to their service.

When a person serves, when they volunteer and they go in or they are drafted or whatever the case may have been, they go in to serve their country. But I also think our country, and I think this is what the gentlewoman was talking about too, has a duty to take care of them when they get back, because after all, I mean it is very nice for us to stand here and say all those wonderful things about our soldiers with the ongoing conflict we have certainly in Iraq, but the fact is there is that duty, and just as we lift them up and applaud them as they go off to war and just as we pray for them and we hold them in high esteem when they go off to fight our battles and defend our freedom, when they come back, they should come back to a situation that makes them whole. Just this evening, as a matter of fact, on one of the national news shows, there was a just a very painful story of a young man who just came back from Iraq, and I know he is not a veteran yet, but when he got back, his bills had amounted up to so much between him and his family. He was a National Guardsman, and they had some kind of a furniture repair business or something of that nature, but in the course of his being gone for the period he was gone, his income from the business went down 80 percent, and now he finds himself in a position where his wife and he have decided for whatever reasons to go their separate ways.

□ 2100

But the thing that really touched me was he had apparently an opportunity to now get out of the military, but he said he wanted to stay. He said that he was an Honor Guard, one of the men who go to the funerals and fold up the flag and deliver it to the family. He said that he wanted to stay because he felt that that was so important.

When I heard that, I said to myself, we really ought to make sure that we do right by our veterans. It is not enough for us to come and applaud them. It is not enough for us to come and thank them. We have really got to support them.

Ms. LEE. The gentleman from Maryland (Mr. CUMMINGS) is absolutely correct. I agonize every time I walk down the streets in my community and see veterans who are homeless, and then find that hospitals are closing and that they cannot get their medication and they do not have anyplace to sleep.

I think it is a shame and disgrace that we have allowed that to happen to our veterans, because here they are, proudly serving our country. We should roll out the red carpet upon their return, and we should have every program, every provision for them returning to either civilian life or life here in the military. That should be made easy, that transition.

Instead, what do we have? We have cuts in their funding, we have lack of medical care for them, and we have many of our veterans coming back

from different parts of the world with unknown diseases, and we cannot get them in for treatment or diagnosis or for any kind of medical care. It is mind-boggling to me.

I will tell the gentleman, I think we need to really look at what we mean when we say we support our troops, because, in supporting our troops, for me, that means, yes, protecting them and keeping them from harm's way, but also upon their return making sure that their families and their lives are not only made whole, but that they receive the type of incentives and the type of real action, affirmative action, that we should provide for them, because they have done such a job for this country.

Mr. CUMMINGS. When the gentlewoman talks about disabilities, I want her to go back a moment and talk about concurrent receipt. It seems to be just an unfair situation, when you are injured and you go leave the military on a disability and then your disability payments are then deducted from the funds that you are supposed to be getting. Can the gentlewoman explain that to us?

Ms. LEE. That, in essence, is taxing disabled veterans for disabilities that they unfortunately acquired while serving this country.

Mr. CUMMINGS. Basically what is happening is they are taking away money.

Ms. LEE. They are taking away money from them after they have been hurt. That is mean. That is mean, and I think it immoral. Somehow, the entire country needs to wake up to that and say how unjust this is and correct this. That is why H.R. 2569 has got to come to the floor.

Mr. CUMMINGS. I agree. I get letters all the time from our veterans on that issue of concurrent receipt. As a matter of fact, I just got something today where a gentleman from Oklahoma was just very upset. He said, "I wish you all would address that, because it is just so unfair to me." He is extremely angry.

Ms. LEE. He should be. What we are doing is making veterans pay for their disabilities, which are no fault of their own. It should be just the reverse. We should pay them a stipend, an additional benefit, for what they have done.

Mr. CUMMINGS. I want to thank the gentlewoman for her support. I really appreciate it.

Mr. Speaker, as I conclude, I just want to go on and say that although the U.S. military has traditionally been, as my colleague has said, a diverse institution, it has not always been an integrated institution. From Crispus Attucks, who suffered the first shot during the Revolutionary War, to the Tuskegee Airmen, who never lost a single bomber under their escort during World War II, African Americans have answered the call to service whenever our country was in need. Yet these same soldiers have not always been treated fairly by their country.

Even today, our veterans, all of our veterans, are not treated, as the gentlewoman from California (Ms. LEE) has said, with dignity and the honor that they deserve. How else can we explain the things that the gentlewoman from California (Ms. LEE) just talked about, cutting the veterans budget in this year's budget resolution? How else can we explain proposing to close veterans hospitals around the country when they are in dire need of care? We must change this course and honor our veterans in word and in deed.

So, Mr. Speaker, I stand on the floor of the House tonight feeling a sense of pride; pride for the ultimate sacrifice that our men and women have made throughout our history, so that I and my colleagues might stand on this floor tonight.

I want to just yield back to the gentlewoman from California (Ms. LEE) with regard to some issues that she wants to discuss.

Ms. LEE. Just very briefly. As the gentleman was talking, I am reminded of my childhood now. I can remember very vividly men in uniform, black men in uniform, being denied entrance to a restaurant or to a movie theater, or being forced to go to a water fountain that said "Colored Only," in uniform. I can remember this.

I have so many unfortunate memories of proud African American men in their uniforms being turned away, being discriminated against for one reason, and that is because they were black. I think that they are true heroes, they are true patriots; and I hope that history will record their service to this great country. But also I think we need to make sure that history is accurate in its writing and in its history and not cloud over the fact that men in uniform did not have equal access to basic kinds of services, such as a water fountain.

Mr. CUMMINGS. It is very interesting, in my district we just had an opportunity for some African American students to talk to the superintendent of schools. This is one of the best school systems in the country, Howard County, outside of Baltimore. The African American students were talking to the school board, talking about the difference in the disparity between their achievement and those of white children.

One of the things that they said that just was so profound is they said it is so important that we know our history. I chimed in and said, "It is not just important that you know it. That is not enough. It is very important that all of your classmates know it too, because then I think the world can appreciate all that has been contributed, not only by African Americans, but by this whole melting pot in making this country what it is."

I cannot forget as you were talking, Jessie Jackson, Sr., talking about when he came back from war. He had to sit in the back of the train, and a lot of the white German prisoners were allowed to sit in the front of the train.

The reason I understand why you raised these issues is we want to make sure on the one hand that we honor our veterans, but we realize that honoring our veterans is giving the total story, or, as somebody used to say in one of the movies, "giving the rest of the picture."

Ms. LEE. The gentleman is right. History must be recorded accurately. I think only by telling the truth, by putting forth the true history of any group of people, but especially our veterans, whom we are discussing tonight, that has got to be a priority for our young people, because how will they know what to do in the future? How will they know how to live? What kind of values will they embrace, if they do not know of the struggles and of the challenges and of the fights that many people in this country have waged?

So history must be recorded, and it must be recorded accurately.

Mr. CUMMINGS. As we conclude, I think when one looks at the stories that the gentlewoman told about when she was a little girl and would see what the veterans would return to, and the water fountain that said "Whites Only," the fact is that so many of these soldiers, think about the Buffalo Soldiers and many others. Although they knew that this country was not necessarily treating them fairly, they still stood up. As a matter of fact, many of them were beating down the doors trying to stand up for this country.

Not only do we pause here tonight to thank the living veterans, but we thank those and their spirits who may have gone on who were fighting for a country that they knew was not necessarily treating them right, but they were always fighting for their future. They were fighting for generations yet unborn.

Let me say that when one thinks about somebody putting their life on the line and knowing that they would return to a situation in this country where they were not treated fairly, but puts their life on the line today so that, not only their offspring, but even the offspring of those that might not have treated them right could have freedom and could have opportunity and could have convenience, that is a powerful statement. It really is.

So we come here not only to honor the veterans who can hear us tonight, but we come here also to honor those who have gone on and who dreamed a dream that the world would be better that they were fighting for.

Ms. LEE. There are many veterans who are still with us who are getting older now who I have the privilege to know and work with, and those are the Tuskegee Airmen. What a wonderful legacy they have left.

I will never forget when I was working for our great statesman, Congressman Ron Dellums. I was on his staff and we worked very hard to get a display in the museum, I believe it was in the NASA museum, of the Tuskegee

Airmen. That was a real fight, but we got it there. Millions of people were able to read about, see and honor the Tuskegee Airmen because of Ron Delums and because of the work we did to make sure that they received a prominent place in the museum here.

Mr. CUMMINGS. So many people here hear the Congressional Black Caucus stand up over and over again and talk about the war and talk about our objections to the war; but one thing they always hear from us over and over again is that we support our troops, that we support our men and women who are out there fighting. But we have come here tonight to say not only do we support our troops, but we also support our veterans with everything we have got. I used to say we support them 100 percent. I change that to 1 million percent.

Ms. LEE. That is right. My final comment is, as I said earlier, I think we need to put our money where our mouth is now and try to fight like we know how to fight to make sure that each and every nickel that they deserve they receive.

Mr. CUMMINGS. So, Mr. Speaker, again as I have said before, there are so many deeds that go unnoticed, and the ones who perform them are often unseen, unnoticed, unappreciated, and unapplauded. Tonight we in the Congressional Black Caucus take a moment to salute those who have given so much so that we might live the lives that we live.

IN MEMORY OF THE HONORABLE CORWIN M. NIXON

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Ohio (Mr. PORTMAN) is recognized for 5 minutes.

Mr. PORTMAN. Mr. Speaker, I rise to speak briefly about a dear friend of mine who passed away earlier this morning. I rise to honor the memory of the Honorable Corwin Nixon, a dear friend, a distinguished constituent, and an accomplished public servant, who passed away this morning in his beloved Ohio at the age of 90.

He was someone I knew all my life, and someone whose devotion to public service was an inspiration to me. He served with honor for 30 years in the Ohio General Assembly, including 14 years as minority leader. Before his election to the State legislature, he served 12 years as a Warren County commissioner.

He was probably the most recognized man in Warren County, and evidence of the great affection for him can be seen throughout southern Ohio. His name is on a Waynesville covered bridge, a Dayton health center, and an aquatic center at Miami University. But most importantly, Mr. Speaker, thousands of people in Warren County remember him fondly and the help he gave them, a family member, a neighbor, or a friend.

Corwin Nixon's life experiences and his extraordinary people skills made

him an effective representative for all the people in Warren County. He grew up on a farm near Red Lion, Ohio, where he continued to live most of his life.

□ 2115

He rose through the ranks to become manager at a Kroger grocery store in Lebanon, Ohio, and in the 1950s became the manager of the Lebanon Raceway, a job that became his passion as he built the raceway into a major regional attraction.

Corwin Nixon was also an active volunteer, locally, Statewide, and nationally. Among his many activities he served on the boards of Bethesda Hospital in Cincinnati and Grandview Hospital in Dayton. He was President of both the U.S. Trotting Association and the International Trotting Association. He was an original member of the American Horse Council. He was inducted into the Ohio Harness Hall of Fame and received the Harness Horseman International Appreciation Award.

He used to say his start in politics "just happened," but it happened because of his remarkable work ethic, his genuine concern for people, and his ability to deliver for his constituents. His trademark in the State legislature was his ability to work effectively on both sides of the aisle to achieve results for all people. He was a true gentleman who respected everyone and treated them with respect.

Despite all of his impressive accomplishments in government and business, Mr. Nixon's greatest legacy is his family. He and his wife Eleanor were married for 45 years before her death. Their two children, Keith and Karen, provided them with three grandchildren, Melissa, Tina, and Keith, Jr. and four great grandchildren, Corwin Nixon, III, Eleanor, Preston, and Austin.

Mr. Speaker, Corwin Nixon was one of Ohio's great public servants, whose accomplishments touched many lives in our area and throughout the State of Ohio. He will be greatly missed.

CALLING FOR IMMEDIATE ACTION FOR HEALTHY FOREST RESTORATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GOODLATTE. Mr. Speaker, today the House asked for conferees to meet with the other Chamber to work out differences on the Healthy Forest Restoration Act, H.R. 1904. This evening, I am pleased to be joined by some of my colleagues on the House side to talk about the importance of this legislation that passed the House of Representatives nearly 6 months ago and, yet, has still not been resolved.

This issue has been debated for literally years. Former Committee on Ag-

riculture Chairman Bob Smith of Oregon attempted to address this issue after the Sierra Grande fire which destroyed hundreds of homes in New Mexico in the year 2000. The other Chamber considered similar measures. Last year, a similar bill was reported out of the Committee on Resources.

This year, I worked with two other distinguished full committee chairmen, the gentleman from California (Mr. POMBO) of the Committee on Resources and the gentleman from Wisconsin (Mr. SENSENBRENNER) of the Committee on the Judiciary. We crafted a bipartisan bill that garnered 90 cosponsors. The bill went through three full committee markups before coming to the floor. Our bill takes a truly national approach to a national problem. We passed this bill on May 20 of this year by an overwhelming and bipartisan majority.

I think it is critical to note that we appointed conferees today. We also unanimously accepted a motion from the minority to instruct our conferees to finish work on this bill within 1 week. The fact that the whole House agreed to these instructions shows the urgency of starting these negotiations but, because of a small group in the other Chamber, the essential step of appointing conferees is being delayed. Any further obstruction from the minority party in the other body thwarts the will of not only the 80 members of the other Chamber who voted in favor of their version, but of the entire U.S. House of Representatives.

Since we passed this bill, almost 6 months have elapsed. While H.R. 1904 languished in the other Chamber, 169 days have gone by, over 3.5 million acres have burned, 30 firefighters have died, and 20 civilians have perished as a result of the fury of catastrophic wildfires. The California wildfires of the last 2 weeks provided a stark reminder of the need to act to prevent future disasters. It was only when the California wildfires were dominating the nightly news that the other Chamber saw fit to take up this critical bill, with an 80 to 14 vote on the measure, which seemed to indicate a sense of urgency on the part of the other Chamber.

Unfortunately, the minority party of the other Chamber is still not allowing the naming of conferees. They are refusing to do so in spite of the fact that they know the differences between the two bills are not insurmountable. They are refusing to do so in spite of the fact that an agreement that could result in real action to improve forest health is easily within reach.

The goals of the two bills are strikingly similar. Both seek to address the issues that have tied the hands of our forest managers: NEPA analysis that drags on for months, administrative appeals that spring up at the last minute, and court actions that stall proposed projects for so long that they are moot long before the judicial process concludes.

Now, I do not want to downplay the fact that there are differences. Their version of the bill added over 100 pages of text and five whole new titles that were not in our version. While there is obviously a good deal of work to be done, we owe it to the people who have fought these fires and the neighbors of our Federal forests who have been threatened, evacuated, or left homeless, to finish the job and produce a bill that the President can sign.

All of these issues can be resolved. The only thing preventing us from beginning this resolution is the refusal by the minority in the other Chamber to allow the appointment of their conferees. This action negates the legislative process which calls for a bicameral conference committee to work out any differences between two versions of the same bill, and it is the only thing preventing us from taking steps to protect our communities, our forests, and our watersheds from catastrophic wildfires.

It is important to remember that the House bill received widespread support when it came to this floor. The Society of American Foresters praised it for giving new tools to forest managers to protect our forests. The National Volunteer Fire Council praised it for reducing the threat faced by their members when they are on the fire line. Many of the same groups, as well as the International Association of Fire Chiefs, have asked us to go to conference to address specific issues and finalize a bill. That is my strong desire as well as the desire of the vast majority of those in this House.

There are over 190 million acres of forests and rangelands which remain at risk of catastrophic wildfire, insect, and disease, a landmass larger than New England. Our bill takes the modest step of addressing the hazardous conditions on only 20 million acres of this total. At the same time, it takes an innovative approach to forest health on private forestlands, creating new programs to detect and suppress such forest pests as the Hemlock Woolly Adelgid, the Emerald Ash Borer, and the Gypsy Moth. In short, it takes a national approach to a national problem.

It is time to put partisan politics aside, so that we can bring forth a bill before the end of the session which can prevent future catastrophic forest fires and to begin improving the health of our Nation's forests. It would compound the tragedy still unfolding in California if last week's vote in the other Chamber was just for show. A tiny minority should not be allowed to continue the dilatory tactics that have caused this bill to languish until the end of the session. Time is short. The fires are smoldering in California, and the conditions that created these infernos will only get worse unless Congress acts now.

I would now like to recognize several of my colleagues who have supported our bill as it moved quickly through the House and whose districts badly

need the attention H.R. 1904 would provide. First, someone who understands this problem exceedingly well, because the State of Colorado has experienced some very difficult problems with forest fires this year and in previous years, particularly last year. I recall the devastation to the water supply for the City of Denver, something that is of great concern to us that our bill addresses, but that some would like to delete from it because they only want to allow work being done in what are called "beauty strips" around urban areas, overlooking the fact that the watersheds for many, many communities around the country are protected by our national forests and ruined when those forests go up in flames, and mud and ash and everything else goes down into these important reservoirs and other water supplies.

So at this time I am pleased to yield to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, the House passed its version of the Healthy Forest Initiative in May of this year with an overwhelming majority and bipartisan support. The other Chamber has had our version of the bill for over 6 months and only passed it after fires in southern California scorched almost 1 million acres, destroyed over 3,400 homes, and killed 20 citizens last week.

During a meeting of the Committee on Agriculture, one of our members expressed to us his sorrow that one of his cousins had been burned to death and her sister was burned over 85 percent of her body. One of our own Members lost his home in this tragic event.

After we took this vote in the House, a simple motion to appoint conferees has been blocked by the minority party, preventing the swift conclusion of negotiations. The forest health conditions across the country are too extreme and the threats to our citizens' lives and property too severe for this to be a political football. In Colorado, a beautiful State with beautiful national forests, 7.5 million acres are at risk to fire, insects, and disease. This is more than two-thirds of our forested acres in my State alone.

The need to provide the modest relief provided by H.R. 1904 can best be illustrated by what the people on the front range went through trying to protect their forest. Working in close cooperation with the local community, conservation groups, and Colorado State University, the Forest Service proposed a modest effort to reduce hazardous fuels in this region. After exhaustive NEPA analysis, radical environmentalists filed an administrative appeal, and then a lawsuit.

As the process unfolded, the Hayman fire destroyed the watershed before the project could be implemented. My colleague, the gentleman from Colorado (Mr. TANCREDO), described this in July, how devastating the Hayman fire was. Mr. Speaker, 138,114 acres were destroyed, and 132 homes were lost in that fire. In total, in the year of 2002,

the damages were 619,000 acres burned, 384 homes destroyed, 624 additional structures demolished and, sadly, nine firefighters were killed in this fire. The damage from the fires closed 26 water treatment facilities. After two smaller fires, the Denver Water Board had to spend over \$20 million cleaning up the reservoir.

The crises in our forests warrant action. It is imperative that conferees be appointed. Partisan politics must be put aside, and Congress must act to protect our national treasures.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to avoid improper references to the Senate, including criticizing Senate action or inaction.

Mr. GOODLATTE. Mr. Speaker, I thank the gentlewoman. Her observations are very true. One of the areas that we overlook not only are the water pollution problems that occur, but also air pollution. The fires in California have emitted so many toxic fumes and other forms of air pollution that some are saying that more emissions have occurred from just those fires in California in the last few weeks than occur from all of the automobiles, all of the trucks, and all of the buses emitting all year long in the country. And we saw so many evidences of it. I have a sister who lives in southern California and experienced the difficulty with breathing and so on. Literally millions of people were exposed to this enormous problem. It is not simply a natural wildfire that burns along the ground and the large trees are preserved and so on; these fires consume everything in their path: large trees, small trees, homes, businesses, automobiles, and even some people's lives. And, in doing so, the devastation is truly enormous. Yet, we ignore it as we continue to neglect our forests and not give the professional forest managers the ability to manage those forests.

At this time, it is my pleasure to yield to the gentleman from North Carolina (Mr. HAYES), a member of the Committee on Agriculture and chairman of the Subcommittee on Livestock and Horticulture who knows something about this from problems in North Carolina.

□ 2130

Mr. HAYES. Mr. Speaker, I thank the gentleman from Virginia (Mr. GOODLATTE) very much for yielding, and I thank him for his leadership in putting together a comprehensive effort to respond to the tragedies that have faced us in recent days. And thank goodness for rain. It certainly was not sound management practices that have given our valiant firefighters the breath that they needed, the time to rest, and to hopefully bring these fires under control.

Mr. Speaker, I appreciate this opportunity to discuss the healthy forest initiative, which was passed by the House

in May with an overwhelming bipartisan majority and was finally passed last week by the other Chamber. It is sad that it takes utter devastation, destroyed homes, and loss of life before legislation can finally be passed that will correct Federal policies that desperately were needed to be changed years ago.

But now that we are in the home stretch and the House is eager to move the conference on this legislation, a simple motion to appoint conferees again is being blocked, as was mentioned earlier. The House appointed conferees today. And I want to commend the gentleman from Virginia (Chairman GOODLATTE) and the gentleman from California (Chairman POMBO) for their efforts and leadership in trying to move this bill to conference as quickly and as constructively as possible.

This legislation is important in a number of States, particularly my home State of North Carolina. The Healthy Forest Restoration Act not only provides our Federal land managers with greater flexibility to deal with fire dangers in the West but new authority to test innovative detection and suppression techniques for the many pests that threaten the Eastern forests.

The Southern pine beetle is the most significant threat to forest health in North Carolina. Normally Southern pine beetles attack and kill stress-weakened trees. When populations reach epidemic proportions, even healthy trees can be attacked and overwhelmed.

In North Carolina, the beetles are affecting over 1.5 million acres of pine. Timber valued at more than \$12.4 million was destroyed last year alone by the pine beetle. Our hardwood forests are also threatened by invasive pests such as the gypsy moth. Gypsy moth eradication is a high priority because of the damage it can do to trees in residential areas as well as scenic mountain areas.

There are almost 17 million acres of private timberland in North Carolina, representing billions of dollars in investments by private landowners and the forest industry. The threats to these forests threaten the economy of my State and the ecological value of these lands. No individual landowner is equipped to deal with the pest outbreaks on the scale that we have seen in recent years.

At this time, I would like to ask the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture, if he would yield for a question.

Mr. Speaker, it is my understanding from recent meetings that we have held that the minority leader in the other body has made a provision and added to another bill basically a healthy forest initiative for the State of South Dakota. However, we here are unable to move forward with conferees at this point in order to give the same

type of attention, protection, and also commonsense land management practices to our other States. Is this the gentleman's understanding?

Mr. GOODLATTE. Mr. Speaker, the gentleman from North Carolina (Mr. HAYES) is correct. It is regrettable but nonetheless true, that legislation was passed a couple of years ago that included a provision placed into an appropriations bill that creates a different standard for South Dakota.

I am quite glad that the Black Hills National Forest in South Dakota has that different standard, because they have the ability to allow the Forest Service employees, the district rangers, and others in that national forest to prepare the land in environmentally sensitive ways, to protect that forest from the kind of catastrophic wildfires that we have seen in California and Oregon and Arizona and New Mexico and Colorado and Idaho and Montana and other States as well.

But there is absolutely no reason why the provisions in either the bill passed by the House or the bill passed by the other body, neither of which contain the same level of authority granted to the Forest Service folks in South Dakota, could not be made available to the other 49 States as well. We are not even asking for as much as what South Dakota has right now. And, yet, we are being impeded from being able to bring this issue to a resolution.

We are so very close; the differences between the House and Senate can be worked out. There are differences. We should not minimize them. They are important differences. But we passed today here on the floor of this House a motion to instruct conferees offered by the gentleman from Texas (Mr. STENHOLM), the ranking democrat on the Committee on Agriculture, a motion to instruct that says we will have an open conference with participation by all of the conferees appointed. And, by the way, the Speaker went ahead today and appointed those conferees. We are ready to act. We have committed to an open process. We have committed to a speedy process.

The motion to instruct calls for reporting back a bill to the House by next Thursday. And that is possible if we would be able to go to conference. But if action is not taken promptly, we will lose that timetable. Time will slip away from us. And, of course, we are nearing the end of this Congress. And if time slips too much, we may be unable to complete this legislation, which President Bush very anxiously wants to sign, supported by so many bipartisan Members of both the House and the other body.

Mr. HAYES. Mr. Speaker, I appreciate the gentleman's not only keen perspective on the issue but his accurate knowledge of the history. And I would ask that if he would yield for one more question, I would like to pursue this issue a little further in South Dakota.

My question is this: the gentleman mentioned the Black Hills National Forest, which is a true national treasure. And I agree with him wholeheartedly that I am very glad that this wonderful treasure has this degree of protection. I seem to recall, particularly since my daughter-in-law is a native of South Dakota, and a wonderful member of my staff is also a South Dakotan, and I have enjoyed many trips there, but were there not some catastrophic fires there as well not too long ago?

Mr. GOODLATTE. Mr. Speaker, reclaiming my time, the gentleman from North Carolina (Mr. HAYES) is correct. There have been catastrophic fires in South Dakota, but there was even more importantly a recognition that there were vast areas, not just the so-called beauty strips immediately around communities, but vast areas of the Black Hills National Forest that were at risk of catastrophic wildfire.

We are not talking about the wildfire that burns along the ground and gets rid of the brush and things out of the area and leaves the larger trees; but we are talking about fires that, because of the buildup of fuel density, the trees continuing to grow, the fires being suppressed over a long period of time, when they finally do occur, they stair-step up from the brush into the smaller trees, into the larger trees, into the overstory of all of the trees in an area and devastate the whole area.

Then when it comes up to a community, no small narrow band of treated area will keep that kind of massive fire that can sometimes leap over long distances because of the enormous height that the flames reach and the burning pieces. In the California fire, there was a report last week of an instance in which a 4 by 8 piece of plywood was spotted by one of the planes combating the fire flying through the air in flames at 2,800 feet of altitude. Now, when these things can reach that kind of proportion, a small strip around a community will not protect the community. So wisely, the legislation that protects South Dakota does not include that type of restriction.

The Forest Service there can use their judgment with proper notice to the public and with fair hearing for people who have, as we all do, a concern that these things be done properly, the ability to treat various parts of the forest not simply limit it to those areas. That is one of the things that is apparently holding up our progress here. I think it is a serious mistake.

Mr. Speaker, we should be allowed to go in and work with the other body to fashion legislation that will address this problem in the other 49 States.

Mr. HAYES. Mr. Speaker, again I thank the gentleman for his precise and concise information. As a matter of instruction for this body, the conditions you describe almost duplicate the conditions in a thunderstorm. The fire starts low, as you said; and as the heat

builds, it creates a tremendous upswelling of current, which, again, has the same destructive effect as a thunderstorm which results in hail and tornadoes. But as the gentleman very clearly illustrated, those pieces of burning limbs, lumber, whatever the case may be, can spread this fire in an incredibly rapid manner.

And my point in all this being that the same reasons that South Dakota saw fit to pass local legislation are the reasons that we have in this fine legislation that we are talking about tonight.

In closing, Madam Speaker, I would like to make one more point. I have heard the terms partisan, bipartisan. This is about as bipartisan as anything could possibly be. Both parties are working very hard, way beyond, for the most part, to reach commonsense solutions to tragic, dangerous, destructive, and expensive fires.

I would say to my friend, the gentleman from Virginia (Mr. GOODLATTE), that to me an observation is that this is not partisan in any way. And I use as an example, I was in the chair this afternoon, and the discussion was about how we develop more plentiful, less expensive sources of energy to keep our manufacturers, keep our transportation, to create jobs and to grow our economy. And, again, it was a bipartisan effort. Republicans and Democrats joined together in a commonsense manner to reach agreement and to come up with policy and solutions that are good for all America.

So what I saw there were Republicans and Democrats hand in hand working together against the extremists who inhabit a very small portion of the population, but have an unusual amount of sway in these discussions.

So I would simply submit for this discussion that this is not about disagreements between parties; this is about commonsense men and women of good faith on both sides, Republican and Democrats, who are uniting against a radical extreme, far way-out small segment of the community that is costing lives and costing money.

So that is my point, Madam Speaker. This is not a partisan issue. And I think it is important that we take it further and define it as it really is. It is common sense versus nonsense.

So, in closing, again, I thank the gentleman from Virginia (Mr. GOODLATTE), Madam Speaker, for the time and attention. The Healthy Forest Restoration Act provides the flexibility and resources necessary to deal with these problems, protects millions of acres, thousands of homes, and citizens. I hope the two Chambers can resolve their differences and send the bill to the President as quickly as possible. Common sense, not nonsense.

Mr. GOODLATTE. Madam Speaker, I hope that what was done by this Congress for the State of South Dakota 2 years ago will be done for the other 49 States as well. In fact, we do not even ask quite as much. We simply ask for

fair treatment, and we hope that we will get it soon. It is very, very important.

Madam Speaker, I think it is interesting to note that of the speakers we have had down here tonight, the furthest west is the gentlewoman from Colorado. And I think this reflects that this is not simply a Western problem; this is a problem that affects the whole country. Because in the East while we have different types of forests, they also suffer forest fires; but the greatest threat in the eastern forests are the insects, and the disease, many of which are nonnative species that have come into this country from one source or another around the world. And we do not have the natural enemies of these species to combat in our forests. So often times they run rampant: the pine bark beetle that the gentleman from North Carolina (Mr. HAYES) mentioned, the wooly adelgid which attacks our hemlocks, the gypsy moth which attacks our hardwoods, and the emerald ash borer which attacks our ash trees.

Madam Speaker, at this time I yield to the gentleman from Georgia (Mr. BURNS).

□ 2145

Mr. BURNS. Madam Speaker, I appreciate the gentleman yielding me this time.

Madam Speaker, it is time for us to take action. This body has done its job. The Committee on Agriculture that the chairman does such a wonderful job in managing brought this bill to the floor. As my colleagues have pointed out, it was passed overwhelmingly from both sides of the aisle, and there was not a dissension that we could not resolve. So as we worked with the Committee on Resources and worked with the Committee on Agriculture, we came here and passed this measure in May. We had high hopes for swift action in the other body. We were happy finally to see that action recently.

Unfortunately, it was only after the tragic situations in the West and in California where so much air and water quality was damaged, and certainly the loss of life and homes, the threats that were there, we were certainly glad to see action; but now we face a challenge. The challenge is moving from the two bodies to the conference committee, and we have worked very vehemently to ensure that happens.

When this measure came to the committee, I consulted the Warnell School of Forestry at the University of Georgia and asked them to review the legislation and give me their input, and tell me what they thought was best for not only Georgia's forest, but our Nation's forests. They did a very thorough job in their advice and counsel, and I took it.

We have the Chattahoochee National Forest in Georgia. It is a place I enjoy. I enjoy the fishing and the trout streams and the air and the quality of life there. We have to protect it. H.R. 1904, the Healthy Forest Initiative, is

legislation that will not only protect the Chattahoochee National Forest, but forests from North Carolina to California, from the Dakotas to Texas, and it is important that we move this legislation.

Certainly the biggest challenge that we face is not allowing our forests to become the political football of the current session of Congress. They are too important. We have over 17 million acres of private forest land in Georgia alone. As the chairman accurately pointed out, fires are a concern for us, but they are not the dramatic concern that we see in the West like in California and Colorado. Our real challenge is pests, as the gentleman from North Carolina has pointed out.

Mr. HAYES. Madam Speaker, I cannot help but be touched by the irony of what the gentleman is saying. The gentleman from Georgia is a very valued member of the Committee on Agriculture, and I have been here slightly longer than he has, so when the gentleman came, I had an opportunity to give him an assignment. I think he remembers the assignment.

Madam Speaker, Georgia is known for many, many things, but the one that we particularly enjoy is the bobwhite quail. Prime forest management for the bobwhite quail requires controlled burning. It requires removing fuel which prevents forest fires, but when done in a controlled way, in the spring of the year, under proper humidity conditions, typically at night to reduce smoke and other emissions, not only is habitat produced, but food sources for nongame species, cover for songbirds, all types of animals and birds, is created. Again, a commonsense, tried-and-true practice, accepted for well over 100 years of land management, here is a way that we actively control fuel, manage our forests, stop disease, create habitat, and increase filtration ability for watersheds and streams.

Madam Speaker, I ask the gentleman how is that project coming?

Mr. BURNS. Madam Speaker, I would tell the gentleman that the challenge is still there. When I was growing up, there was an abundance of small game, especially small bobwhite quail and squirrels and rabbits, just natural wildlife. My colleague is correct, back in that era it was a common practice to burn the woods. We would take the underbrush out. We would create the habitat as the gentleman from North Carolina (Mr. HAYES) suggests, and that would provide a plentiful environment for native species and migratory birds.

As we face the challenges today, we see fewer and fewer of our natural habitats available for our wildlife. I think this is a bill that promotes wildlife. It promotes best practices in our forestry. I think the biggest concern I have is we do not need to be playing politics with the forests of our Nations.

We have fires in Georgia. Mercifully, they are fairly small, but yet we lost

over 84,000 acres of forestland to fire in the last 4 years. But as has been pointed out, we have had a 278 percent increase in the southern pine beetle, and that can be directly attributed to the fact that we are not managing our forests with the best practices.

This restoration act provides our Federal land managers with the flexibility that they need not only to deal with forest fires and fire dangers, but also to deal with disease and pests that are invading all of our forests. We have to suppress the pests and make sure that they do not continue to threaten our eastern forests. Billions of dollars to Georgia's economy are attributable to our forestry industry. There are 17 million acres that need protection. If we look at our neighboring States of Florida, Alabama, Tennessee, South Carolina, we all face similar challenges as we try to deal with the need to have healthy, vibrant forests.

It amazes me that we cannot come to some reasonable accommodation in a very expeditious amount of time. I would hope that as this body has already done, as it has worked together, and as the gentleman from North Carolina (Mr. HAYES) has pointed out, this has been a very strong bipartisan bill. We have worked hand in hand with both sides of the aisle to reach a conclusion and agreement that we can move to the other body. They took that up, they passed it by a substantial margin, even an overwhelming margin, and now it is time for the next step. The next step has to be for us to move forward and bring this bill to a conference and out of conference and back to the floor of the House.

The Healthy Forest Restoration Act is indeed a national solution to a national problem. The time for action is now. I concur with my colleagues from Virginia and North Carolina. We need a commonsense solution, and we have it in our midst. We need to move it through both bodies and pass it and send it to the President.

Mr. GOODLATTE. Madam Speaker, I thank the gentleman from Georgia (Mr. BURNS) for his comments.

Now, somebody who has experienced this problem firsthand in the State of New Mexico has joined us. I yield to the gentleman from New Mexico (Mr. PEARCE). New Mexico last year suffered some devastating fires which we thought would be just the thing that would cause Congress to get over the top and get this issue resolved. Unfortunately, we fell short; but we are back again this year, and we are as close as we have ever been to getting this legislation through both bodies so we can send it to the President.

Mr. PEARCE. Madam Speaker, I thank the gentleman for talking about this critical issue in front of this body.

I grew up in New Mexico and on our vacations we would drive to Cloudcroft, New Mexico. From the early 1950s, I noticed that there was a place there of thousands of acres where no tree grew. It was in the middle of pine forests in

southern New Mexico, and it was always odd to me. It was only after beginning to work in the legislature and learning what makes a forest grow and not grow that I realized that was a forest fire that had occurred in the middle part of the century, and over 50 years later, the soil was still sterile from the effects of that fire.

So when my constituents ask me what is a healthy forest, I tell them one that is natural, one that grows up the way that conditions would permit. In New Mexico, a healthy forest, generally, historically, pictures tell us, had about 25 to 50 trees per acre. I like to ask schoolchildren when I go around, how many trees per acre are in New Mexico forests now? On average, we have over 1,500 trees per acre. The trees do not get the nutrients that they need, they do not get the water they need. In attempting to get the sunlight they need, the small-diameter trees grow to 50, 75 and 100 feet, matching the height of the mature trees. Then, as has been described, as a fire starts, it uses the small diameter as kindling to get the fire burning across the top of the entire forest, the crown fires burning just the top of the trees, burning just the piece that will kill it, and then the healthy, good hardwood stands rotting, waiting to just become a part of the soil, sometimes waiting years to decay.

Another problem with an unhealthy forest is that they soak up water, and in New Mexico which is an arid State which desperately needs water, and we are in the fifth year of a drought, if each tree consumes only one gallon per day, the estimates are in New Mexico, we have over a billion too many trees, that is 1 billion gallons a day. The actual estimates are much higher, Madam Speaker, and that trees will probably use 100 gallons a day. And in an arid State where water is life, where water is growth, where water is our future, we are mismanaging our forests into unhealthy situations that are going to burn and destroy this national treasure and this natural resource, that rob our cities of the water they need for growth and for the population, all because extremists in this society say we would rather watch them burn than to cut one single tree.

There are extremists in this city who say no State, except South Dakota, will be allowed to cut trees without the NEPA studies that are required, no state but South Dakota, a provision that was snuck in in the middle of the night over 3 years ago in an omnibus bill. The rest of the States want the same permission to do commonsense thinning to create a healthy forest. It is not a question of if our forests are going to burn, Madam Speaker, it is a question of when our forests are going to burn.

I flew this year between two towns in western New Mexico, and I flew over 200,000 acres with just the stubs of smoldering trees standing. The entire 200,000 acres was killed in just a short

period of time. The unreasonable, extreme environmentalists who will block every attempt to do commonsense thinning which will create our healthy forests should be ashamed. And those special interest people who in this city who will give one State permission to do the commonsense practices of good forest management should unlock the doors and allow the rest of us to have access to the same commonsense approach to managing our forests, to managing our forests to become healthy forests instead of the death traps they are now.

Madam Speaker, I thank the gentleman for yielding me this time.

Mr. GOODLATTE. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for some very commonsense observations. Just looking across the spectrum of Members who have spoken here tonight and who spoke here today on the motion to instruct conferees, we had Members from Oregon, California, Colorado, Montana, Idaho, New Mexico, Arizona, all across the West they experience this problem; and then Georgia, Virginia, North Carolina, they experience this problem. And folks from Michigan and Pennsylvania have spoken about forestlands. We are blessed in this country with great and bountiful forests all across America, but we need to take care of them. And when we have to manage them because people live in and around them and we have to fight forest fires, that fuel density builds up. When it does, we have to give our forest managers, the professional people, the ability to step in and do what needs to be done.

□ 2200

We are doing it in such a way that we expedite the process so that it does not go for so long that the problem overtakes the solution, but at the same time we do it in such a way that the ability of concerned citizens to have their input in the process, to even appeal the decisions that they think are inappropriate, to have that opportunity to do that but do it in a way that is expedited because that is what is needed for a problem as serious as this one.

I see that we are now joined by another Member of Congress who has experienced this problem firsthand in his State of Montana. I would be pleased to yield to the gentleman from Montana for him to also give his observations about the problem with the state of forests in his State and around the country.

Mr. REHBERG. I thank the gentleman from Virginia for taking on an issue that we find very important in the State of Montana and throughout the Nation and, that is, healthy forests. I have been involved in the issue since 1988. We saw the fires exist in our State to the tune of almost 1 million acres. As an observer, I assumed our elected officials would do something about that. Over the course of the next

few years, I watched nothing happen. Our forests continued to deteriorate. In the year 2000 in the State of Montana, we saw almost 1 million acres burn again, and I assumed something would be done. Again, nothing was done. When I joined the Congress, I was impressed by the fact that our chairman now of the Committee on Resources and my chairman of the Committee on Agriculture were willing to hold hearings to try and find the solution to healthy forests. It does not take rocket scientists to figure out what is wrong.

I manage resources. I am in the agriculture business in Montana. I clearly understand a mineral cycle, a water cycle. I understand that when you have undergrazed grass, it kills grass as much as overgrazed grass. I notice that when you have timber, when you have underthinned timber, it creates the same devastation as clear cutting.

But there are those within our Federal Government and there are those within this Congress that do not understand that. When I see various Members of the body from the other side of the Capitol making exceptions for their State, understanding that you need a management plan to thin their timber to create a healthier environment and they do not want to provide that same opportunity for us, there is something hypocritical. Shame on them. It is time that this Congress understands that healthy forests are created. But I understand that there are only a certain level of tools that can be used to manage our forests.

What are those tools? Prescribed burn can be a tool. Uncontrolled fire is a catastrophe. It is stupid. But prescribed burn is a tool. Grazing, which is something I know something about because I have grazing animals on my operation to thin the undergrazed properties, creates a healthy environment. So what do we do? Move some livestock in and graze and take care of that undergrazed property.

Logging. Why do we find that timber companies are bad things? On forest properties, on Federal properties, we tell them what to cut, when to cut, how to cut and we ask them to use their capital, their labor and their equipment. How can that be a problem? Unless, of course, we do not do it right. We have some of the best environmental laws in this country. Let us use those logging companies as a tool to manage our forests. But we cannot get beyond the politics of creating some kind of an argument that we do not want logging companies in our forests. Let us use them as a tool. Let us talk about holistic management of our forests. Let us move beyond the politics.

I think that we have a plan that we have sent to the Senate; we have asked them to consider an opportunity, we have asked them to consider a holistic approach to management. What do we hear? "We have a perfect plan. We want the House to accept it without any debate." How arrogant. I have only been here for 3 years, I say to the chairman

of my Committee on Agriculture. I have only been here for 3 years, but the arrogance of the attitude that we have got the perfect piece of legislation being sent from the Senate is incredible. I do not understand that kind of a concept.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEARCE). The Chair would remind all Members to avoid improper references to the Senate, including criticizing Senate action or inaction.

Mr. REHBERG. The arrogance of somebody who makes a determination that we do not have a dog in this fight, that we do not have an opinion, that we do not understand the holistic management of our forests is incredible to me. I think the taxpayer ought to be appalled. I think the Nation ought to be appalled. And I think it is time that we make a determination to do what the gentleman from Virginia has done in the Committee on Agriculture with all the hearings that I sat through as a freshman on his subcommittee and that our chairman of the Interior and now Resources Committee has done to consider the whole healthy forests initiative. I think we ought to take the high road; we ought to take the approach that we have sent over to them and say, it is not entirely about safe communities, which safe communities are important, but it is about healthy forests. And we sent over a healthy forests policy.

And so what we really need to do is we need to sit down in the conference committee, work out the differences, pass something along to the President, and do what the gentleman initially suggested a number of years ago and, that is, create truly a healthy forest policy. I thank the gentleman for what he has done in his committee.

Mr. GOODLATTE. I thank the gentleman. The gentleman's point is very well taken. A healthy forest means safe communities. That is what we are really talking about here. If we get to the root cause of this problem, which is our unhealthy forests, we will not see the kind of disasters that we have seen in recent years that have taken lives, taken homes, taken families away from their communities. It has been a disaster of the highest order. While these disasters have taken place, the Congress has watched the burning and has been inactive.

The gentleman is correct. In the subcommittee that I used to chair, we held many, many hearings. In the full committee that I chair now, we are holding those hearings. We moved forward with legislation. We worked closely with the Committee on Resources and the Committee on the Judiciary. We passed a bipartisan bill. Forty-one Democrats in the House joined with the overwhelming majority of Republicans to pass this bill. The ranking member of the Committee on Agriculture has been a real pleasure to work with on this issue, even though he has acknowledged today in his district in Texas

there is so little forestland. But he recognizes this problem in other parts of Texas and in other parts of the country. We have worked together to move this far. Why we cannot see the same response from other quarters where we need to have cooperation to get this done and to move the final bill to the President, I do not know. But nonetheless, we stand here and wait for the opportunity to finish what we have started.

Mr. REHBERG. Mr. Speaker, if I might ask the gentleman from Virginia a question. What possible reason would others within the United States Congress want to create an exception for their own forests or their own State and not provide the same opportunity for Virginia, Washington, Idaho, Colorado, now California, and certainly Montana?

Mr. GOODLATTE. We mentioned this earlier. It is indeed disappointing that the opportunity would exist for anyone to jump the gun, if you will, to get an opportunity to do the right thing, and we are glad that the State of South Dakota has the tools that they need to protect the Black Hills National Forest, a precious resource. Why we would not also have the opportunity to do that in the 49 other States where all of the States in one way or another have problems with protecting forests, why we would not get that, I do not know. But we stand here and we wait for the opportunity.

Mr. REHBERG. Another question, Mr. Speaker, if I might of the gentleman from Virginia. Is there any reason why this has not happened in the past based upon the majorities of the Congress and the fact that within the last year and a half this is the first time in 40 years we have had an opportunity to effect change? Would we not now try a different management approach? Not to say we are entirely blameless, because certainly we supported Smokey Bear, we believed that putting fires out, we believed that the management plan that existed in the past perhaps had some credibility. But recognizing that it has failed, would it not be incumbent upon us now in our new majority position to come up with a new and more exciting, more vibrant opportunity to see not only a healthier wildlife and a healthier environment but certainly a safer environment for our forests?

Mr. GOODLATTE. The gentleman is absolutely right. There is absolutely no question that we have to fight forest fires. We do not want to send the message that when people go into our national forests or when natural lightning strikes occur that we should not be getting those firefighters out there. That is a part of saving the forests from disastrous wildfires, not the natural fires that burn along the ground, but the kind that stair-steps up and consumes the entire forest.

We also know that it is important to do that, to keep the communities and people who live around those forests

safe. But we also know that when you do that, when you intervene like that, you also have to take the responsibility to keep the forests healthy in other ways, to use prescribed burns where it is appropriate to do so. These have minimal consequences when they are done properly. They accomplish the goal of burning out the brush on the ground. They do not emit the kind of massive amounts of air pollution that these catastrophic, uncontrolled wildfires have. They do not cause the same kind of devastation to our water resources that these kinds of fires we have seen in Colorado and California and Montana and elsewhere have. But we need to give the Forest Service the tools to take the proper steps.

And so I am glad the gentleman has made that observation that this legislation that we have passed through the House with strong bipartisan support and similar legislation that has passed through the other body but has not yet been conferenced, has not yet had the opportunity to resolve the differences, stands waiting for that final resolution. We stand here waiting for the opportunity to conference this.

Mr. REHBERG. Mr. Speaker, if I may in conclusion to the chairman of the Committee on Agriculture just say very quickly that as I travel around the State of Montana and this country, I know and I talk to people about the fact that Federal properties in Montana, which I represent, are owned by the taxpayers. I understand that. And so when I ask them a question, what do you want to see from your forests, they usually tell me, I want to see healthy wildlife. Okay, I can accept that. They say they want to see a healthy environment. We do not get so specific as talking about the mineral cycle and the water cycle, but it is something that I understand. They talk about the fact that they want to see healthy trees. When I explain to them that a dead tree that has got beetles in it and the beetles pass on to another tree, a dead and dying tree creates a dead and dying forest, and unless we remove the cancer of that dead and dying tree, it will kill the forest. They say, that, I can understand.

Then we move on to fire and I say, if you do not control the litter, the excess, the overgrowth and the dying trees, you will create a fire danger and that is not very bright. You know what they do? They usually go, yeah. You know, we did not realize. If you had just told us that we have dead and dying trees, we have wildlife that do not have enough grass, we are creating a canopy that is killing the grass, it is killing the trees, it is creating a safety danger and houses are burning up and people are losing their lives, they usually go, I can understand this issue. What do you suggest?

And then I move into talking about the tools that are available, prescribed burn, grazing, logging, thinning and such. They go, well, we had no idea, because that's not the story we are hear-

ing from our lobbyists and our special interests and our newspapers and television stations in places like Connecticut and Rhode Island and such. And, yeah, we own that land and we want to take care of that land and we thank you for understanding the issue. Thank you for supporting healthy forests.

I thank the gentleman from Virginia for his hard work, his dedication and his effort to create the right kind of bill coming out of this Congress. I just hope that that is what we can pass on to the President of the United States.

Mr. GOODLATTE. I thank the gentleman. I want to thank the Speaker of the House, Speaker HASTERT, for the opportunity to discuss this important issue tonight. I also want to thank my ranking member, the gentleman from Texas (Mr. STENHOLM), without whom we would not have come so far this year. The other committee chairmen who helped hone the bill also deserve high praise for their efforts. I wish that I were not here on the floor of the House pleading the case to start formal negotiations.

□ 2215

This issue has dragged on needlessly for the entire legislative session. We need to discharge our duty, follow regular order, and conduct open, fair conference processes called for by the House this morning.

THE MIDDLE CLASS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Vermont (Mr. SANDERS) is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, tonight I want to focus on some very important issues which impact the middle class of our country, and I do that as the only Independent in the U.S. House of Representatives. And as an Independent, the views that I am going to express are somewhat different than the views of many of my colleagues.

The first point that I want to make is in a sense an obvious point to most people in this country, especially perhaps the 50 or 60 percent of the American people who have given up on the political process and no longer vote, and that is that in Washington, D.C., in the White House and in the United States Congress, money, big money plays an enormous role. There is a reason, and I am going to get into this in greater length in a moment, why we are hemorrhaging decent-paying manufacturing jobs and those jobs are going to China where workers there are paid 50 cents an hour and why corporate America is laying off millions of American workers to take jobs abroad. And one of the reasons that we have a disastrous trade policy is the huge amounts of money that come into Congress, that go into the White House, which have opened up access so that these corporations can go a long way toward

destroying decent-paying jobs in America. Money talks. There is a reason why in the United States of America our people pay by far the highest prices in the world for prescription drugs.

I border in Vermont, the State that I represent, Canada, the Canadian Nation. And in Canada people pay in some cases one-fifth, one-third, one-half of the prices that people in the United States pay for the same exact medicine made by the same company. There is a reason for the fact that in the United States we are the only country in the industrialized world that does not in one form or another regulate the drug industry and prevent them from charging Americans any prices they want, and that reason is big money.

The pharmaceutical industry contributes huge amounts of money to Members of Congress. They have lobbyists running all over this place. Several years ago when the President of the United States had a major fund raiser, there was the pharmaceutical industry up there on the dais with him. There is a reason why the United States today is the only Nation in the industrialized world which does not have a national health care program guaranteeing health care to all people, and that reason is money coming into Washington, D.C. from the insurance companies and other people who profit off of a health care system which is disintegrating before our eyes. There is a reason why pollution all over America is rampant, and that has to do with the money that utilities and other large corporations contribute to political parties and to the White House.

Front page, New York Times today: "Lawyers at EPA Say it will Drop Pollution Cases," and the article goes on to point out, of course, that "Representatives of the utility industry have been among President Bush's biggest campaign donors, and a change in the enforcement policies has been a top priority of the industry's lobbyists." In other words, they have now been given permission to pollute because they are major campaign contributors.

There is a reason why this Congress and this President have passed legislation which provides enormous tax breaks for the wealthiest people in our country, hundreds and hundreds of billions of dollars in tax breaks that will go to millionaires and billionaires, while at the same time we have the highest rate of childhood poverty in the industrialized world for our children, where we have working people living in their cars because they cannot afford the housing that is available to them. That has everything to do with the money that the wealthy and large corporations contribute into the political process.

Mr. Speaker, the corporate media, which, of course, is owned by big money interests, does not talk about what is happening in our country too much in terms of what is going on in the lives of ordinary people, but in my view, in many respects the United

States is rapidly becoming three separate nations. On one hand we have an increasingly wealthy elite composed of a small number of people with unbelievable wealth and power. That is one group. Small numbers but incredible wealth, incredible power. And then we have the vast majority of the people who are in the middle class, and the middle class in our country today is, as most Americans know, shrinking. The average American today is working longer hours for lower wages than he or she used to. People are going bankrupt at frightening numbers. It is extremely rare when we can see one breadwinner in the family earning enough money to pay the bills in almost every instance in the middle class. Now, two people are needed to work, and sometimes these folks are working unbelievable hours and are becoming stressed out. That is the middle class, shrinking, people working longer hours for lower wages, wondering how they are going to be able to send their kids to college. And at the bottom, at the bottom of the ladder, we have a growing number of Americans who are living in abject poverty, people who are barely able to keep their heads above water, people who are in many instances working for \$5.15 an hour, the minimum wage, and those people, after 40 hours of work, 50 hours of work, are falling further behind. They cannot afford to get their cars fixed to get the work. They cannot afford child care for their children, and that is what is happening to our low-income people, and poverty in America, as we all know, is increasing.

What we very rarely hear discussed in the House of Representatives, in the corporate media, is the growing gap between the rich and the poor and the fact that in our country we have the most unequal distribution of wealth and income. The fact that there have been rich and poor is not new. That has always gone on. But the disparities in wealth and income that currently exist in our country today have not been seen since the 1920's. In other words, instead of becoming a more egalitarian country, a country in which the middle class is growing, where fewer people are living in poverty, what we are seeing is more and more inequality in terms of the distribution of wealth and income.

Today, Mr. Speaker, the wealthiest 1 percent of the population owns more wealth than the bottom 95 percent. That is right. The richest 1 percent owns more wealth than the bottom 95 percent. Some people may think that is okay. Let me be frank. I do not think that that is right, that that is moral, that that is what this country should be about. The CEOs of our largest corporations today earn more than 500 times what their employees are making, 500 times. While workers are being squeezed, being forced to pay more for health insurance, while their pensions are being cut back, the CEOs of large corporations in many instances make out like bandits. And I am not just

talking here about the crooks, the dishonest people, the illegal people who ran companies like Enron and WorldCom and Arthur Andersen and those companies. I am not talking about them. I am talking about the highly-respected CEOs like the retired head of General Electric, Jack Welch, who, when he retired in 2000, received \$123 million in compensation and \$10 million a year in pension benefits for the rest of his life, and he did that after throwing tens and tens of thousands of American workers out on the streets as he moved his plants abroad to China, Mexico, and other countries. Good job, Jack. He is sure worth \$123 million now that he has laid off tens of thousands of American workers. I am talking about people like Lou Gerstner of IBM, who, from 1997 to 2002, received \$366 million in compensation while slashing the pensions of his employees and the health care benefits of IBM retirees. Right on, Lou. \$366 million for him; cuts in pensions and health care benefits for his retirees. A great American. I am talking about C.A. Heimbold Jr., Bristol-Myers Squibb, who received almost \$75 million in 2001 while helping to make it impossible for many seniors in this country to purchase prescription drugs because they are priced so high.

Today the Nation's 13,000 wealthiest families who constitute 1/100 of 1 percent of the population receive almost as much income as the bottom 20 million families in the United States. That to my mind is not what America is supposed to be.

New data from the Congressional Budget Office shows that the gap between the rich and the poor in terms of income more than doubled from 1979 to 2000. In other words, we are moving in exactly the wrong direction. The gap is such that the wealthiest 1 percent had more money to spend after taxes than the bottom 40 percent. The richest 2.8 million Americans had \$950 billion after taxes, while the poorest 110 million had less, 14.4 percent.

Mr. Speaker, it is increasingly common to see in my State of Vermont, and all over this Nation, working people working not at one job, not at two jobs in order to pay the bills, but in more instance than we can imagine, working three jobs, working incredible hours, not 40 hours but 50 hours, 60 hours. Is this what the new global economy is all about, seeing men and women all over America working one, two, three jobs with minimal benefits?

When I was growing up, the expectation of being in the middle class, and I know this is a very radical concept that some young people might find difficult to understand, but the concept then before computers, before the explosion of technology, concept of being in the middle class in those days was that one person in a family could work 40 hours a week and earn enough money to pay the bills and take care of his or her family. Imagine what a radical idea that was, one person. The re-

ality now is that we find very few families in the middle class where one person works 40 hours and earns enough money to pay the bills.

□ 2230

In terms of what is happening to the middle-class, we have lost over 3 million jobs in the last 3 years, and, with 9 million workers unemployed, unemployment is over 6 percent. That is a serious problem. But in truth, the unemployment situation is far worse than that, because official unemployment statistics do not include those workers who are no longer actively searching for work. So if you are in a high unemployment area, if there are no jobs and you are not actively working, you are not included. Those figures do not include workers who are working part-time because they cannot find full-time work. Those figures do not include Ph.D.s who are driving cabs and skilled workers who are doing unskilled labor because there are no jobs around that fit their skills. But, nonetheless, we have 9 million people who are unemployed.

Importantly, of the 3 million jobs that we have lost over the last 3 years, 2.7 million were in the manufacturing sector. This is an issue that I want to spend a moment on, because what is happening in our manufacturing sector today is a disaster for this country and bodes very, very poorly for the future of our Nation.

The bottom line is, and Congress must finally recognize this, our trade policies are failing. NAFTA has failed. Our membership in the WTO has failed. Perhaps, above all, permanent normal trade relations with China, PNTR, has failed.

The time is now, and, in fact, it is long overdue, for the United States Congress to stand up to corporate America, to stand up to the President of the United States, to stand up to editorial writers all over America, all of whom have told us, year after year, how great unfettered free trade would be. Well, the evidence is in. They were wrong. They were horrendously wrong. They told us that unfettered free trade would create new jobs. Instead, we have lost jobs.

They told us that unfettered free trade would improve the standard of living of the middle-class. Instead, real wages have gone down.

Let us be very clear: The decline of manufacturing is one of the reasons why our middle-class is shrinking and why wages for middle-class workers have declined. When we talk about the loss of 3 million jobs in the last 3 years, we should appreciate that 90 percent of those jobs were lost in manufacturing, and, with the loss of manufacturing jobs, we have seen a decline in real inflation-accounted-for wages over the last 30 years.

Today, American workers in the private sector are earning 8 percent less than they were in 1973; 8 percent less. Now, just think about that for a moment. In the last 30 years there has

been a revolution in technology. We all know that. We all know what computers have done, what e-mail has done, what faxes have done, what cell phones and satellite communications have done. We know what robotics in factories have done. In other words, we are a much more productive Nation than we were 30 years ago. Almost every worker is producing more.

Given that reality, that we have new tools that make us more productive, why is it that the average worker in the private sector today is earning 8 percent less than he or she was earning in 1973? This is a major issue that we have got to put up there on the radar screen, and an issue that needs to be discussed all over our country.

Let us be honest about it: Manufacturing in this country today is in a state of collapse. In the last 3 years, we have lost 2.7 million manufacturing jobs, which comprise 16 percent of the total; 16 percent of manufacturing jobs have been lost in the last 3 years.

In my own small State of Vermont, the third smallest State in the country, we have lost some 8,700 manufacturing jobs between January 2001 and August 2003. And here is the tragedy: When we talk about the loss of manufacturing jobs, we are talking about the loss of decent-paying jobs, often with decent benefits.

In Vermont, for example, on average, someone working in manufacturing makes over \$42,000 a year. That is a decent income. When that employee loses his or her job, when that job goes to China, in almost every instance the new job that is acquired by that worker pays less and provides lower benefits.

Mr. Speaker, in 2002, the United States had a \$435 billion trade deficit; a \$435 billion trade deficit. This year, the trade deficit with China alone, one country, China, is expected to be \$120 billion, and that number is projected to go up and up and up in future years.

In recent years we have seen the trade deficit rise from \$11.5 billion in 1990 to \$49 billion in 1997 to \$120 billion this year. And here is what is scary: the National Association of Manufacturers estimates that if present trends continue, our trade deficit with China will go up to \$330 billion in 5 years.

Now, our disastrous trade policy is not only costing us millions of decent-paying jobs, it is squeezing wages. It is lowering the wages for the average person. Many employers are making it very clear that if workers do not take cuts in their health care coverage or do not take cuts in wages, that they will move operations to China, to Mexico, or elsewhere.

One of the areas where people are most severely hurt is among the young entry level workers, people without a college education.

Mr. Speaker, for entry level workers without a college level education, the real wages, that is, inflation-accounted-for wages, that they receive have dropped by over 28 percent from

1979 to 1997, which are the latest figures that I have seen. The drop for women during that period was only 18 percent.

How did that happen? Why did that happen? Well, the answer is fairly obvious. Twenty-five years ago, 30 years ago, if you graduated high school you had, as often as not, the opportunity to go to work in manufacturing. You did not get rich, but you were able to make a living, you were able to have decent health care and other benefits.

But with the decline of manufacturing, what job opportunities are now open to young workers who do not have a college degree? Well, everybody knows what is open. They can go to work at McDonald's for the minimum wage, or a little bit more than that, or they can go to work at Wal-Mart. But the sad truth is that those jobs do not pay anything close to a living wage.

What I think can best show what is happening in our economy today is that not so many years ago the largest employer in the United States was General Motors, and workers who work at General Motors today and worked at General Motors 20 years ago earned a living wage with decent benefits.

Today, Mr. Speaker, our largest employer is Wal-Mart. And that is what has happened to the American economy. We have gone from a General Motors economy to a Wal-Mart economy, where people earn low wages and miserable benefits. Today, Wal-Mart employees earn \$8.23 per hour, or \$13,800 annually, wages which are below the poverty level.

In other words, the largest employer in America, Wal-Mart, now pays workers wages that are below the poverty level. Many of these workers qualify for Federal food stamp programs, which means that Wal-Mart is being directly subsidized by U.S. taxpayers. They pay inadequate wages, workers cannot make it, the Federal Government subsidizes Wal-Mart and allows those workers to get food stamps.

Wal-Mart, as you know, has been sued by 27 States for not paying the overtime pay their workers are entitled to, and, recently, on the front pages of our newspapers, Federal agents raided their headquarters and 60 of their stores across the country, arresting 300 illegal workers in 21 States. That is the largest employer in the United States of America.

That is what the transformation of the American economy is all about. We have gone from an economy where workers used to work producing real products, making middle-class wages with good benefits, to a Wal-Mart economy, where our largest employer now pays workers poverty wages with minimal benefits and has a huge turnover.

Frankly, Mr. Speaker, in hindsight, it did not take a genius to predict that unfettered free trade with China would be a disaster. Many of us have been saying that right here on this floor for years. With educated, hard-working Chinese workers available at 30, 40, 50 cents an hour, and with corporations

having the capability of bringing their Chinese-made products back into this country tariff-free, why would American multinational corporations not shut down? Why would they not shut down their plants in this country and move to China? It does not take a genius to figure out that that is what they would do, and that is what they are doing.

Should anyone be surprised that Motorola eliminated 42,000 American jobs in 2001 while investing \$3.4 billion in China, or that it plans to invest \$10 billion there by 2006?

Who is shocked that General Electric has thrown hundreds of thousands of American workers out on the street in the last 30 years, while investing \$1.5 billion in China? From 1978 to 1995, GE eliminated 269,000 jobs in the United States. Meanwhile, of course, its former CEO, Jack Welch, managed to put together an estimated fortune of some \$900 million for himself.

Boeing has laid off 135,000 American workers. In the last 30 years, General Motors has shrunk their U.S. workforce by 250,000. IBM, another major corporation, has signed deals to train 100,000 software specialists in China over a 3-year period. Honeywell has built 13 factories in China. Ethan Allen Furniture, which does business in my State, has cut jobs at three sawmills and 17 U.S. manufacturing plants. Nobody, nobody, should be surprised at those developments.

China, for American multinational corporations, is a great place to do business, if by "doing business" we mean making products for export back into the United States that companies previously made here. Not only are wages extremely low in China, 30, 40, 50 cents an hour, but if workers attempt to stand up for their rights and they try to form a union, they get arrested. They go to jail.

That is a great place to do business. In the United States we have environmental standards. Factories, plants cannot throw their garbage into the air and into our waterways. Not in China, which is rapidly becoming one of the most polluted countries in the world.

It is a great place to do business: Low wages, people go to jail when they form unions. If people stand up and protest against their former government, they go to jail. Massive pollution. What a wonderful place to go and support the authoritarian government in China.

□ 2245

Mr. Speaker, I want to read a quote, and I think some of our Members and Americans will really be quite surprised by this quote, but I think it needs to be brought out, and it needs to be discussed, because this is what is going on in America today. This is a quote from Jeffrey Immelt, who is the chairman and CEO of General Electric, obviously one of the largest corporations not only in America, but in the world, and this is what he said at an investor meeting on December 6, 2002, a

little less than a year ago. This is the chairman of General Electric: "When I am talking to GE managers, I talk China, China, China, China, China. You need to be there. You need to change the way people talk about it and how they get there. I am a nut on China. Outsourcing from China is going to grow to \$5 billion. We are building a tech center in China. Every discussion today has to center on China. The cost basis is extremely attractive. You can take an 18 cubic foot refrigerator, make it in China, land it in the United States, and land it for less than we can make an 18 cubic foot refrigerator today, ourselves." Jeffrey Immelt, Chairman, CEO of General Electric.

There it is. This is not an American company; this is a company prepared to sell out every American worker and run to China where they can exploit people there and bring that product back into this country tariff-free. And it is not just General Electric. I quoted GE. I could have quoted a dozen other corporations.

Mr. Speaker, the trade problem with China is now so severe that it is not only a question of companies located in the United States moving to China, but it is companies located in Mexico moving to China. Everyone knows that Mexican wages are a fraction of the wages in the United States, but for many American corporations and international corporations, wages in Mexico are too high, which is why hundreds of factories have shut down there and have gone to China, causing major problems for Mexico. Mexico cannot compete with China, and we signed a trade agreement with them which says that American workers are supposed to compete against the desperate people of that country.

Over the years, advocates of unfettered free trade have tried to gloss over the bad news about the decline in factory employment by promising that a new high-tech economy was in the making. It would be a new economy in which millions of workers, young people, would be able to be sitting in clean offices, working behind their computers, earning \$50,000, \$60,000, \$70,000 a year. We do not have to worry about those old factory jobs, let them go to China and Mexico, because we have all of these high-tech jobs that are going to pay people really good wages. That is what they told us. Do not worry about blue collar jobs, we have the white collar jobs.

Unfortunately, Mr. Speaker, the advocates of free trade are wrong again. We now know that blue collar manufacturing jobs are not the only casualty of unfettered free trade. Estimates are that some 50,000 to 60,000 high-tech, white collar jobs have been lost in this country in the last 2 years, and that many of them have ended up in India. When Americans argue with the phone company about whether their phone bill is right or wrong, they are not going to be talking to somebody in Boston, New York City or Los

Angeles; more often than not, they are going to be talking to somebody in India. That is who we are going to be talking to, more and more. And that whole phenomenon of outsourcing information technology jobs is happening more and more.

According to Forester Research, a major consultant on this issue, they say, "Over the next 15 years, 3.3 million U.S. service industry jobs and \$136 billion in wages will move offshore. The information technology industry will lead the initial overseas exodus." That is from Forester Research.

According to Booz Allen Hamilton, companies can lower their costs by as much as 80 percent by shifting tasks such as computer programming, accounting, and procurement to China. That is your job going abroad. Among many other companies moving high-tech jobs abroad is Microsoft, which is spending \$750 million over the next 3 years on research and development and outsourcing in China.

Recently, Intel Corporation Chairman Andy Grove warned that the U.S. could lose the bulk of its information technology jobs to overseas competitors in the next decade, largely to India and China.

In other words, Mr. Speaker, not only has unfettered free trade cost us much of our textile industry, our footwear industry, our steel industry, our tool and die industry, our electronics industry, our furniture industry, as well as many, many other industries, it is now going to cost us, unless we change it, millions of high-tech information technology jobs as well.

Mr. Speaker, I want to place into the RECORD a recent press release from the University of California at Berkeley. Its headline is, "UC Berkeley Study Assesses Potential Impacts of Second Wave of Outsourcing Jobs From the U.S.," and this is the way it begins: "A ferocious new wave of outsourcing of white collar jobs is sweeping the United States. According to a new study published by the University of California Berkeley, researchers say the trend could leave as many as 14 million service jobs in the United States vulnerable. Study authors, who are both researchers at the Fisher Center for Real Estate and Urban Economics housed at UC Berkeley's Haas School of Business, say that not all of the jobs are likely to be lost, but they note that jobs remaining in the United States could be subject to pressure to lower wages, and that the jobs that leave may slow the Nation's job growth or generate losses in related activities.

What are those jobs? Well, if you are a telephone operator, watch out. If you deal with health records, if you are a payroll clerk, if you are a legal assistant or a paralegal, if you are an accountant, if you are a financial research analyst, if you work behind a computer, there are folks in India, there are folks in China who can do that job for a fraction of the pay that you are being paid, and your boss is interested in taking that job there.

Now, let me be very clear, Mr. Speaker. The United States needs to have a strong and positive relationship with China. I very much respect the Chinese people, and I am not here attacking China. I am here saying that the President of the United States, corporate America, and the United States Congress have sold out the American worker. China is doing fine. We do not have to criticize them. They are doing very, very well. They just sent a man into space. Their economy is exploding. The problem is not China. The problem is that corporate America, and all of their money, have influenced the United States Congress and the President of the United States. And not just this President, but Mr. Clinton, but Bush the first, but Ronald Reagan before him, into a trade policy which is a disaster.

The bottom line is that American workers should not and cannot be asked to compete against desperate people who make 30 cents or 40 cents an hour. That is wrong.

Now, trade in itself is a good thing. I am not anti-trade. But we need a trade policy, and I know how heretical it is to say this, but we actually need a trade policy that works for America and not just large multinational corporations. We need a trade policy that is fair for the American workers. We want to export our products that are manufactured by American workers, not export the jobs that American workers have. When the New York Yankees are engaged in trade, they do not engage in free trade by which they trade their best ball player for a third-string, minor leaguer, they do not do that. The United States has the most lucrative market in the world, and we are giving it away. Let us engage in trade that works for us, that works for the other side; not engage in trade which is decimating American manufacturing and increasingly, high-tech jobs.

Now is not the time to engage in an accelerated race to the bottom. We should be talking about how wages go up, not down; how poverty is eliminated, not increased. And that is why we need to change our trade policies, and that is why, Mr. Speaker, I have introduced H.R. 3228, which would repeal permanent Normal Trade Relations with China. Let us get it out in the open. Let us not be talking about currency. It is important, but it is not the major issue. The major issue is that our trade agreement with China, permanent normalized trade relations is a disaster. We have to repeal it, and then we can engage in a fair trade agreement with China and with other countries.

I am very happy, Mr. Speaker, to tell my colleagues that since we have introduced that legislation just a few weeks ago, we have garnered 54 cosponsors and it is strongly bipartisan, 14 Republicans are on board that legislation right now, and I appreciate that. We have a tripartisan piece of legislation, and it is something that I know

the American people support. If any person in the House of Representatives or elsewhere wants to learn more about that legislation, we have written it up on our Web site which is www.bernie.house.gov. We have a lot of information there about trade and many other important information about what is going on in Congress.

Mr. Speaker, when we talk about the decline of the middle class, when we talk about unemployment going up, wages going down, the loss of decent-paying jobs, we should also talk about what is happening to the quality of life of so many people in our country. We should recognize that the average American today is working incredibly long hours in order to pay the bills. Today, in fact, the average American employee works, by far, the longest hours of any worker in the industrialized world, and that situation is getting worse.

According to statistics from the International Labor Organization, the average American last year worked 1,978 hours, up from 1,942 hours in 1990. That is an increase of almost 1 week of work. Since 1990, the average American is now working an additional week a year.

Now, I see those workers in the State of Vermont and I see them all over the country. They are stressed out. They do not have enough vacation time. They are working day and night just to pay the bills. Again, we want to ask ourselves this simple question: What is going on in our country when we have increased productivity, more technology and, yet, more and more workers earning lower real, inflation-accounted for wages, and they are working incredibly long hours? What is going on in our economy?

The bottom line there is that we have got to begin to create an economy that works for the middle class and not just for the very, very rich. We have to create an economy where people are earning more income so they can work fewer hours, so they have more time to spend in leisure and with their kids and with their families.

I have talked, Mr. Speaker, about what is going on with the middle class. I have talked a little bit about the conversion from a manufacturing society, a General Motors society to a service industry economy, a Wall Street economy. But let us look for a moment at those people who are not even in the middle class. They have not made it into the middle class, those people who are living in poverty. Sadly, Mr. Speaker, while the rich become richer, 1.3 million more Americans became poor and entered poverty just in the last year.

□ 2300

We now have 34.8 million people who now live in poverty. In the midst of those people, Mr. Speaker, and what is happening, people we have got to ask about the 11 million Americans who are trying to survive on the pathetic minimum wage of \$5.15 an hour.

And I wonder how it is that in this great institution we can lower taxes for billionaires, but I have not heard one word from the President of the United States about the need to raise the minimum wage above the pathetic level of \$5.15 an hour.

Now, how does somebody survive who makes \$5.15 an hour or \$6 an hour. Does anybody care? Well, I will tell you how some of them do it. After working 40 hours a week, some of these workers, full-time employees, go to sleep, not in their houses, not in their apartments, but in their automobiles because they cannot afford the housing units that are available in their region.

And what, Mr. Speaker, about the 43.6 million Americans who lack any health insurance at all? What happens to those people? That is over 15 percent of our population. And what about the 3½ million people who will experience homelessness this year, 1.3 million of them children? And what about our elderly citizens who cannot afford their prescription drugs, who shrug their shoulders and nod their heads when doctors write out a prescription because they do not have the money to fill those prescriptions? How many of them die? How many of them see a deterioration in their health?

And what about the veterans, the veterans who have put their lives on the line defending this country and then try to get into a VA hospital that they are entitled to get into but they find out that they have to be placed on a waiting list? They were not placed on a waiting list when they were going off to fight, but now to get the health benefits they are entitled to, they are placed on a waiting list.

And just last year the President of the United States, after giving huge tax breaks to the richest 1 percent, threw over 150,000 veterans off of VA health care. Tax breaks for billionaires, inadequate funding for our veterans.

In the last several years we have seen huge increases in health insurance costs. And with the increase of unemployment, we have seen more and more working people lose their health insurance. And what happens to those people? What happens if you have no health insurance and you have an automobile accident and you end up in the hospital? Well, I tell you what happens. You go bankrupt. And the largest single cause of bankruptcy, personal bankruptcy in this country are for people who cannot pay the medical costs that have been generated because of an accident or an illness.

Mr. Speaker, our health care system today is a disgrace and is in a state of disintegration. More and more people are uninsured and more and more people are underinsured, that is, they have to pay higher and higher copayments, higher and higher deductibles, higher and higher premiums. There are millions of Americans today who have insurance, but who hesitate to go to the doctor when they should be going be-

cause they cannot afford the deductible and the copayment. And doctors will tell you that the patients they are seeing today are far sicker than the patients they used to see because people simply cannot afford payments out of their own pocket.

In my mind, the only solution to our health care crisis, the only right thing to do to really address the disintegration of our health care system is to do what every other major industrialized nation on Earth has done, and that is to move toward a national health care system which guarantees health care to every man, woman, and child as a right of citizenship.

The reality of our health care non-system is not only that 43 million Americans are uninsured, not only that more and more are underinsured, not only that we pay the highest prices in the world for prescription drugs; but the reality is that this system is the most wasteful and bureaucratic system in the world. Many people do not know this, but in the United States we spend twice as much as the Canadians, three times as much per person as the United Kingdom spends. And those countries provide health care to all of their people.

And study after study shows that if we moved toward a single-pay national health care system, we can guarantee health care to all of our people, quality health care, freedom of choice for the doctor that you want to go to and not spend one penny more than we are currently spending on our disintegrating nonsystem. And, Mr. Speaker, that is what we have got to do. We can no longer tolerate the disgrace of tens of millions of people being uninsured, people going bankrupt because they get ill, people delaying going to the doctor.

In areas of this country dental care is a disaster. Children have rotting teeth in their mouths because there are no dentists who will treat them or dentists available in the area. We need to finally move toward a national health care system and make health care a right of all people.

Now, Mr. Speaker, those are some of the problems facing our country. Poverty is increasing. Middle class is shrinking. Rich are growing richer. Large corporations and their CEOs, while they hide behind the American flag and they tell us how much they love America, they are prepared to throw millions of American workers out on the street and move to an authoritarian China because they can make more money there.

Now, I wish I could say, Mr. Speaker, that the Bush administration is in any rational way responding to these problems. But I think it really would be impossible to say that. Instead of addressing the very serious problems facing our veterans, facing our children, facing public education, facing the fact that middle-class families are finding it harder and harder to send their kids to college, instead of addressing the crisis of the high cost of prescription

drugs, the proudest achievement of the Bush administration is huge tax breaks, 40 percent of which went to the wealthiest 1 percent.

And in the midst of all of this, in the midst of workers working longer hours for lower wages, the decline of manufacturing, the Bush administration, if one can believe it, is now attacking overtime pay for American workers. Can you imagine that? Attacking overtime pay for American workers and trying to undo laws that have been on the books for decades which say that if you work over 40 hours a week you will get time and a half.

I am very proud that a number of Republicans joined many of us Democrats, Independents, on the floor of this House to say that that is wrong and that in fact we were not going to cut back on the overtime pay that workers earn and deserve.

Now, when we talk about the Bush administration, we should also point out a very strange irony. The President considers himself a conservative. That is fine. But, generally speaking, conservatives have told us over and over again, year after year after year, what a terrible thing it is to grow the deficit and grow the national debt because when you do that they have told us, and they were right, you are simply passing on today's problems to our children and our grandchildren. Over and over again I have heard from these podiums right here how terrible it is to grow the deficit. Well, guess what? We now have the largest deficit this year in modern American history and the largest national debt that we have ever had.

□ 2310

In the midst of that and accelerating that deficit and accelerating that national debt are the huge tax breaks that the President and the Republican leadership have given to the wealthy.

Now some people, many conservatives, they say why would a conservative President grow the deficit and grow the national debt. That is not conservative. Let me suggest my view as to why they are doing that. We can all understand that if the wealthy contribute large amounts of money, you are going to give them a tax break. I think that is obscene, but that is nothing new; that is politics. But there is something more cynical going on here. That is, I believe, by driving up the national debt and the deficit, what the President is saying is that we will be so deeply in debt that we have got to tear apart many of the important social programs that have protected tens and tens and millions of Americans.

It is my opinion that in many respects this President wants to undue many of the major gains that were won by working people over the last 100 years and bring us back to the 19th century where workers had no guarantees, and when trouble struck them and their families, they were dependent on charity and the largess of the wealthy.

I think that is one of the reasons why this national debt is going up, so the President and future Presidents will be able to say we can no longer afford to maintain Social Security; let us privatize it. We can no longer afford to protect Medicare; let us privatize it. Let us do away with Medicaid. Let us do away with the Veterans Administration. Let us do away with Pell grants. We cannot afford it. I think what this administration is doing, and this is the most right-wing administration in modern history, is essentially trying to remove all of the protections that the elderly, the poor, the sick, and the young have and were won over the last 100 years. That is what I think is going on, and I think that is a very, very dangerous trend.

Mr. Speaker, let me conclude my remarks by mentioning that this weekend I am going to be going to Madison, Wisconsin, to participate in a major media conference where we expect some 1,500 people from all over the country. I want to congratulate some of the organizers of that conference, Bob McChesney, John Nichols and many others for putting it together. The issue that they are going to be talking about and I will be talking about is the danger that faces our country when a handful of huge media conglomerates increasingly own and control what we see, hear, and read.

On June 2, the FCC by a 3-2 vote voted to make a bad situation worse and to allow even fewer large media conglomerates to control more and more media. That certainly will be one of the many issues that that conference will be dealing with.

I believe it is a very frightening day for democracy when so few large corporations control so much of the flow of information in this country. And if we are not able to overturn that FCC decision, and I and many of us are working hard on that, the day could come in the not-too-distant future where in a community like Burlington, Vermont, you can have one company owning the major television station, the major newspaper, and a number of radio stations. That is one of the rules that was undone; the prevention of that was one of the rules that the FCC just eliminated.

Now the good news is that the United States Senate, the other body, voted for a resolution of disapproval against that by a 55-40 vote. Liberals and conservatives came together, Republicans and Democrats came together and said that is not what media should become in America.

Mr. Speaker, I have a letter which has 205 signatures on it for the Speaker of the House, and it says to the Speaker, let the U.S. House of Representatives have a vote on doing what the other body did. Let us also have the opportunity to vote for a resolution of disapproval regarding the FCC decision. Three million Americans have contacted the FCC, and I think we should listen to those Americans, and I

think the Speaker should give us a vote.

RECESS

The SPEAKER pro tempore (Mr. PEARCE). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 16 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5101. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate [Docket No. FV03-931-1 FR] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5102. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Processed Fruits and Vegetables—received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5103. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—National Organic Program; Amendments to the National List of Allowed and Prohibited Substances [Docket Number TM-02-03] (RIN: 0581-AC19) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5104. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Mexican Fruit Fly; Removal of Regulated Area [Docket No. 02-129-4] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5105. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Joseph M. Cosumano, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5106. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General John S. Caldwell, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5107. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets [Docket No. 03-21] (RIN: 1557-AC76); Federal Reserve System [Regulations H and Y; Docket No. R-1156]; Federal Deposit Insurance Corporation (RIN: 3064-AC74); Office of Thrift Supervision [No. 2003-48] (RIN: 1550-AB79) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5108. A letter from the Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—Rehabilitation Continuing Education Programs (RIN: 1820-ZA14) received October 30,

2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5109. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Skin Protectant Drug Products for Over-the-Counter Human Use; Astringent Drug Products; Final Monograph; Direct Final Rule; Confirmation of Effective Date [Docket No. 78N-021A] (RIN: 0910-AA01) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5110. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Iron-Containing Supplements and Drugs; Label Warning Statements and Unit-Dose of Packaging Requirements; Removal of Regulations for Unit-Dose Packaging Requirements; Removal of Regulations for Unit-Dose Packaging for Dietary Supplements and Drugs [Docket Nos. 91P-018 6 and 93P-0306] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5111. A letter from the Regulations Coordinator, OP/RPMS, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Control of Communicable Diseases; Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals [Docket No. 2003N-0400] (RIN: 0910-ZA21) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5112. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Cambria, California) [MB Docket No. 03-182; RM-10757] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5113. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Wright City, Oklahoma) [MM Docket No. 01-255; RM-10265] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5114. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Charles Town, West Virginia and Stephens City, Virginia) [MB Docket No. 03-12; RM-10627] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5115. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Crowell, Texas) [MB Docket No. 03-168; RM-10747]; (Florien, Louisiana) [MB Docket No. 03-169; RM-10748] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5116. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Lamont and McFarland, California) [MB Docket No. 03-64; RM-10672] received October 31, 2003, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

5117. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Dickens, Texas) [MB Docket No. 02-258; RM-10500]; (Floydada, Texas) [MB Docket No. 02-259; RM-10501]; (Rankin, Texas) [MB Docket No. 02-262; RM-10504]; (San Diego, Texas) [MB Docket No. 02-264; RM-10505]; (Westbrook, Texas) [MB Docket No. 02-265; RM-10556] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5118. A letter from the Senior Legal Advisor to the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cobleskill and Saint Johnsville, New York) [MM Docket No. 00-40; RM-9824] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5119. A letter from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems [CC Docket No. 94-102; Non-Initialized Phones [RM-8143] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5120. A letter from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Digital Audio Broadcasting Systems And Their Impact on the Terrestrial Radio Broadcast Service [MM Docket No. 99-325] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5121. A letter from the Deputy Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule—Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities [CC Docket No. 98-67] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5122. A letter from the Deputy Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule—Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities [CC Docket No. 98-67]; Petition for Clarification of WorldCom, Inc.—received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5123. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Below 28000 kHz [ET Docket No. 02-16] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5124. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules To Establish New Personal Communications Services, Narrowband PCS; Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Narrowband PCS [GEN Docket No. 90-314, ET Docket No. 92-100 and PP Docket No. 93-253; FCC 01-135] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5125. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures [WT Docket No. 97-82] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5126. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Regarding Multiple Address Systems [WT Docket No. 97-81] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5127. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 90.20(e)(6) of the Commission's Rules to revise the Authorized Duty Cycle on 173.075 MHz [WT Docket No. 01-97; RM-9798] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5128. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—the Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010 [WT Docket No. 96-86] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5129. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—the 4.9 GHz Band Transferred from Federal Government Use [WT Docket No. 00-32] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5130. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended [WT Docket No. 99-87]; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies [RM-9332]; Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz [RM-9405]; Petition for Rule Making of The American Mobile Telecommunications Association [RM-9705] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5131. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—1998 Biennial Regulatory Review—47 C.F.R. Part 90—Private Land Mobile Radio Services [WT Docket No. 98-182; RM-9222] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5132. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—2000 Biennial Regulatory Review—Spectrum Aggregation Limits for Commercial Mobile Radio Services [WT Docket No. 01-14; FCC 01-328] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5133. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico [FCC 01-387] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5134. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Competitive Bidding Rules to License Certain Rural Service Areas [WT Docket No. 01-32; FCC-02-09]

received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5135. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010 [WT Docket No. 96-86] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5136. A letter from the Acting Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Addition of Kazakhstan to the Nuclear Suppliers Group (NSG), and other revisions [Docket No. 031010256-3256-01] (RIN: 0694-AC90) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5137. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation [AAG/A Order No. 019-2003] received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5138. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Contract Bundling [FAC 2001-17; FAR Case 2002-029] (RIN: 9000-AJ58) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5139. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—New River Gorge National River Hunting Regulation (RIN: 1024-AD12) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5140. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Glen Canyon National Recreation Area, PWC Use (RIN: 1024-AC90) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5141. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Special Regulations, Areas of the National Park System; Saguaro National Park, Designated Bicycle Routes (RIN 1024-AD10) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5142. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Assateague Island National Seashore, Personal Watercraft Use (RIN 1024-AD02) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5143. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Migratory Bird Permits; Regulations Governing Rehabilitation Activities and Permit Exceptions (RIN: 1018-AH87) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5144. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Texas Regulatory Program [TX-50-FOR] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5145. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Wyoming Regulatory Program [WY-031-FOR Rule Package 1J] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5146. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Great Channel Between Stone Harbor and Nummy Island, NJ [CGD05-03-050] (RIN: 1625-AA-09) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5147. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Security Zone: Port Valdez and Valdez Narrows, Valdez, AK [COTP Prince William Sound 03-002] (RIN: 1625-AA00) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5148. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Bayou Casotte, Chevron Pascagoula Refinery Pascagoula, MS [COTP Mobile-03-022] (RIN: 1625-AA00) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5149. A letter from the Attorney, Office of the Secretary of Transportation, Department of Transportation, transmitting the Department's final rule—Standard Time Zone Boundry in the State of South Dakota: Relocation of Jones, Mellette, and Todd Counties [Docket No. OST-2003-15858] (RIN: 2105-AD30) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5150. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fairchild Aircraft, Inc., SA226 Series and SA227 Series Airplanes [Docket No. 2000-CE-45-AD; Amendment 39-13313; AD 2003-19-10] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5151. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42-200, -300, -320, and -500 Series Airplanes; and Model ATR72 Series Airplanes [Docket No. 2001-NM-306-AD; Amendment 39-13298; AD 2003-18-07] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5152. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-54-AD; Amendment 39-13133; AD 2003-09-04] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5153. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Textron Lycoming Fuel Injected Reciprocating Engines [Docket No. 97-ANE-50-AD; Amendment 39-133222; AD 2003-14-03] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5154. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 100, and 200 Series Airplanes [Docket No. 2002-CE-45-AD; Amendment 39-13218; AD 2003-13-16] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5155. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; MD Helicopters, Inc. Model 369A, D, E, H, HE, HM, HS, F, and FF Helicopters [Docket No. 2003-SW-17-AD; Amendment 39-13215; AD 2003-08-51] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5156. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters [Docket No. 2003-SW-26-AD; Amendment 39-13198; AD 2003-12-13] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4090, and PW4090-3 Turbofan Engines [Docket No. 2003-NE-24-AD; Amendment 39-13211; AD 2003-13-11] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5158. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers and Harland Ltd. Models SC-7 Series 2 and SC-7 Series 3 Airplanes [Docket No. 2003-CE-15-AD; Amendment 39-13207; AD 2003-13-07] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5159. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Goodrich Avionics Systems, Inc. TAWS8000 Terrain Awareness Warning System [Docket No. 2003-CE-25-AD; Amendment 39-13208; AD 2003-13-08] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5160. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2003-NM-101-AD; Amendment 39-13209; AD 2003-13-09] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5161. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -301, -311, and -315 Airplanes [Docket No. 2001-NM-109-AD; Amendment 39-13288; AD 2003-17-13] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5162. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30378; Amdt. No. 3067] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the

Committee on Transportation and Infrastructure.

5163. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Jet Route J-147 [Docket No. FAA-2003-15363; Airspace Docket No. 03-AEA-3] (RIN: 2120-AA66) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5164. A letter from the Paralegal Specialist, FAA, Department of Transportation,

transmitting the Department's final rule—Amendment to Class E Airspace; Pilot Point, AK [Docket No. FAA-2003-14855; Airspace Docket No. 03-AAL-04] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5165. A letter from the Assistant Secretary, Department of Labor, transmitting the Department's final rule—Unemployment Compensation—Trust Fund Integrity Rule; Birth and Adoption Unemployment Compensation; Removal of Regulations (RIN: 1205-AB33) re-

ceived October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5166. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—No Portion of Bonds May Be Issued for Skyboxes, Airplanes, Gambling Establishments, Etc. (Rev. Rul. 2003-116) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

NOTICE

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.